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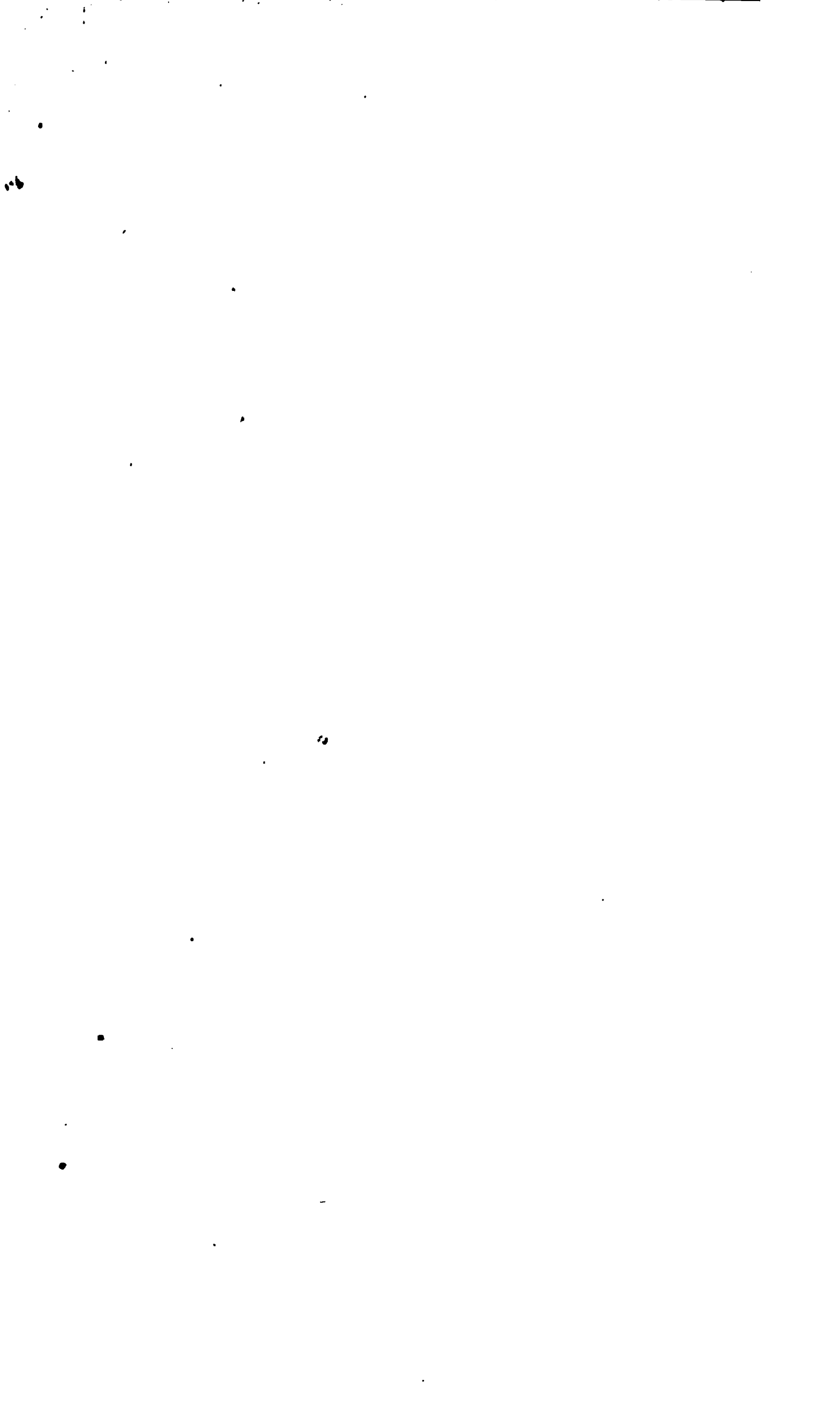
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INTRODUCTION.

BEFORE 1840, there was no general legislation relative to Railways. Railways had been previously established, and to some extent regulated, by the special Acts authorizing their construction; and in 1838, provision was made for making such and future Railways available for the Post Office service: but it was not until 1840 that it was considered "expedient for the Safety of the Public to provide for the due Supervision of Railways," by a general law, so far as that end could then be accomplished by it. The insufficiency and imperfections of this and other of the earlier statutes passed during the growth of the railway system, are sufficiently shown by the extent and nature of subsequent legislation, which affords also at the same time ample evidence of the rapid expansion of that system. Railway Legislation.

The first completed Railway in the United Kingdom for general traffic may be taken to be the Liverpool and Manchester line,*—constructed by a Company incorporated in 1826 by Act of 7 Geo. 4, c. xlix, and since, as well as the Grand Junction, amalgamated with the London and North Western Company's lines. Its opening in September, 1830, is memor- Early Railways.

* The Stockton and Darlington line may, perhaps, properly be regarded as the germ of the present railway system. This and the Stratford and Moreton Railway (or horse tramway, a single line, now merged in the Oxford, Worcester, and Wolverhampton Railway Company's undertaking), appear, after some mineral tramways in the northern coal districts, to have been the earliest portions, in point of date, of the existing railway system.

The Stockton and Darlington line was originally projected rather as a tramway for minerals, worked by animal labour, according to its first Act of Parliament (obtained in 1821), and ultimately opened in September, 1825, (under a further amending act of 1823), as a railway worked partly by stationary engines and inclines, partly by locomotives, and partly (for passengers) by horse power. It has since become one of the most important as well as profitable links in the chain of general railway communication.

The Stratford and Moreton line was first opened in 1827, the Company having been incorporated by an act of 1820.

An interesting account of both of the early lines,—the Stockton and Darlington, and the Liverpool and Manchester,—may be found in Smiles's *Life of George Stephenson*, the Engineer of both, and the introducer of locomotive power into practical use on railways.

able no less as the earliest developed example of British enterprise in this direction, than from its attendant fatality in the loss of one of our most distinguished statesmen, whose official position as Vice-President of the Board of Trade brought him in contact with the means of his destruction.

The second Railway in the United Kingdom, and the first in Ireland, was the Dublin and Kingstown line, opened in 1834, and now in the hands and under the management of the Dublin and Wicklow Railway Company, in conjunction with their own more recent line.

Railway
Acts.

In the 38 years from 1821, when the first act of the Stockton and Darlington line was passed, to 1858, inclusive, no less than 1,686 special Railway Acts^a have been passed for the United Kingdom; of which 1,248 have been for Railways in

^a Number of Special Railway Acts, for the United Kingdom, passed in the years, 1821 to 1858 inclusive.

Years.	Eng- land. ^b	Scot- land	Ire- land.	Total.	Years.	Eng- land ^b	Scot- land	Ire- land.	Total
1821 .	3	—	—	3	1841 .	19	3	1	23
1822 .	1	—	—	1	1842 .	22	3	—	25
1823 .	1	—	—	1	1843 .	19	5	1	25
1824 .	2	1	—	3	1844 .	40	6	1	47
1825 .	—	1	—	1	1845 .	91	16	13	120
1826 .	6	4	1	11	1846 .	188	59	24	271
1827 .	4	2	—	6	1847 .	138	37	16	191
1828 .	10	—	—	10	1848 .	58	20	6	84
1829 .	7	2	—	9	1849 .	22	9	1	32
1830 .	5	2	—	7	1850 .	23	4	8	35
1831 .	4	2	1	7	1851 .	43	9	8	60
1832 .	7	—	1	8	1852 .	37	5	6	48
1833 .	10	—	1	11	1853 .	74	12	16	102
1834 .	11	2	1	14	1854 .	61	7	8	76
1835 .	14	5	1	20	1855 .	48	11	9	68
1836 .	28	4	2	34	1856 .	46	8	4	58
1837 .	35	5	4	44	1857 .	54	13	13	80
1838 .	16	3	—	19	1858 .	52	10	11	73
1839 .	22	4	—	26					
1840 .	11	5	1	24					
					Total 38 years	1,248	279	159	1,686

This table does not include Indian and Colonial Railway Acts.

^b England; including Wales, throughout.

England and Wales, 279 for Scotland, and 159 for Ireland. The numbers in each year, showing the progressive extension of this network of legislation, are exhibited in the annexed table^a, compiled from the statute-book.

Within nearly the same period of time, the extent of Rail-
way communication in the United Kingdom, has increased from
about 32 Miles, the length of the Liverpool and Manchester
line, in 1830, to 9,116 Miles open for traffic at the end of 1857,
besides nearly one-fourth of the latter number in course of
construction or authorized. And more than 130 millions
of Passengers travel over these Railways in a year, or in
other words so many individual journeys are made. It has
cost an outlay of nearly £3 per head on this number of pas-
sengers, to provide them with this accommodation, as the
following statement will show.

Extent of
Railway com-
munication.

The amount of Capital invested in these undertakings has
increased from £1,692,600 (the capital, on amalgamation, of
the parent Railway from Liverpool to Manchester, above
alluded to), to the vast aggregate of £377,767,907, autho-
rized to be raised, up to 1st January, 1857, and of which
£308,775,894 had actually been raised at that date^b, leav-
ing £68,992,013 then to be raised :—the total amount
(which has since been increased for additional lines and
additional works), being equal to half the National Debt,—
sufficient, according to recent statistics, to pay off the entire
debt of the French Empire and leave a surplus,—and nearly
equal to the debts of the two great powers, the Austrian and
Russian Empires, combined,—and to the debts of all the
remaining European States put together. The interest on
this amount, if it were invested at 5 per cent., may be stated
as more than equal to the annual revenue of the United States

^a Page xiv.

^b On 31st December, 1857, according to last Board of Trade Return, the amount of capital raised was £314,989,826, out of £387,051,735 authorized, leaving £72,061,909 to be raised.

of America; or in Europe, of Prussia or Spain, or of many of the European States combined;—and would therefore be sufficient to meet the entire annual cost of the Government, or Civil, Military and Naval Establishments, of those States, without any taxes whatever.

Railway
interests in
Parliament.

The Railway system, in its almost endless ramifications, and the construction and management of Railways, from their importance as an instrument of civilization and commerce, no less than the magnitude of the interests at stake, have become not unworthy to occupy the active and practical attention of many of the leading minds of the day. These interests now contribute a large quota of Members to the Legislature; the proportion of Members of the House of Commons who are Chairmen, Directors, Engineers, or Constructors of Railways, being nearly one-fifth of the whole House, and the proportion in the House of Lords nearly one-tenth: the total number in the two Houses of Parliament is about 150,* not taking into account, of course, the far larger proportion, who, without being office-holders, are proprietors or shareholders and otherwise interested in Railways.

Persons
employed by
Railways.

More than 130,000 persons are employed as Paid Officers and Servants on Railways in the United Kingdom, not including Directors and Auditors^b. The numbers of the latter, appointed by the shareholders themselves, average about eleven Directors and two Auditors, which for 243 Railway Companies in the United Kingdom, would give 3,159 more Paid Officers of Railway Companies,—namely, 2,673 Directors and 486 Auditors,—making in all, more than 133,000 paid employés of Railways. And these numbers are of course

* Of 654 Members (4 seats being in abeyance) of the House of Commons, from 110 to 120 are Railway Directors, Engineers, &c.; and of 437 Peers, from 30 to 40 are Chairmen or Directors of Railway Companies.—See *Dodd's Parliamentary Companion*, *Bradshaw's Railway Manual*, &c.

^b This number had reference to the return for 1856, the last published at the time this was written. The number in 1857 was 153,697; estimated number of Directors and Auditors, 3,300; total, 156,997, in 1857.

wholly irrespective of the vast numbers of persons besides, to whom these undertakings furnish habitual employment in private establishments, in iron-works and factories, in the construction and building of engines, carriages of various kinds, in the supply of coals, coke, oil, clothing, printing and stationery, and in the various other trades and manufactures engaged in supplying the multifarious requirements of Railways.

These general facts are sufficient to show the importance of the subjects dealt with by the statutes contained in this volume.

It is not to be wondered at, that the vast mass of "Private Bills" under the system of exceptional and costly legislation still maintained, as well as the necessity of protection for the public, in regard both to personal convenience and safety, and to the pecuniary interests concerned to so serious an extent, soon led to attempts to make some approach to uniformity of procedure and regulation of the huge machinery of these and kindred projects; and hence the general and "Public Acts" of 1840, 1845, and subsequent years, on the subject. The variety and repeated alteration of the Railway laws at once attest the difficulty of dealing with the various and often conflicting interests concerned, as well as necessarily the little light that could be drawn from experience in the earlier years of Railway legislation.

The object of the present publication is not, however, to discuss the provisions, policy, or operation of the law, but to furnish a convenient means of access to its enactments, rather as a book of reference, more especially for those immediately and practically connected with Railways, and a guide to their statutory duties, obligations, and responsibilities, with such aids as may be afforded by the Index (which is an alphabetical analysis of the whole), Notes of reference and explanation, &c. The want of such a compilation has suggested itself to me by the inconvenience arising from the necessity

Development
of Railway
system.

Design of
the present
publication:
its special-
ties.

Design of
the present
publication:
its special-
ties.

of referring to various and less accessible sources, in the absence, so far as I am aware, of any similar and equally convenient compilation, brought down to the present time, and unembarrassed with legal incumbrances and disquisitions, for which, where required, recourse can be had to more bulky and costly technical treatises, intended rather for the law courts and legal practitioners than for the classes of persons practically interested in or connected with Railways, for whose use the present volume may suffice and is chiefly designed.

In this volume, those provisions which have been repealed or superseded are indicated by a distinguishing type or otherwise. Though no longer operative, I have not thought it right to omit altogether these provisions; but the arrangements adopted show at once the state of the law both before and since its alteration in each instance, and it is hoped may tend to the avoidance of error in this respect, as well as save time and trouble.

Some provisions, which were for the most part of temporary operation, and may now be regarded as generally obsolete, but to which there is occasional need of reference, are placed separately in the Appendix. I have not considered it necessary or convenient to encumber the Index with more than brief general references to these temporary or obsolete acts.

Some freedom has been used with regard to the Marginal Notes or references, which fortunately are not accepted as an integral part of the statutes to which they are attached. As printed in the statute-book, they are sometimes at variance with the enactments to which they are annexed,* and are more frequently not very expressive, or even applicable, as

* For instance, amongst many others, the marginal note to § 65 of the Railway Clauses Act (VII. 65), is in the statute-book "Construction of Bridges;" whereas the section relates not to construction, which was the subject of distinct provisions in previous sections, nor to bridges alone, but relates to keep-

guides to the subject or purport of the enactment; owing, no doubt, in some degree, to the alteration which measures often undergo in the course of their transition from "Bills" into "Acts," without corresponding alteration of the marginal references of the original Bill.

Design of
the present
publication :
its special-
ties.

The phraseology is also shortened and simplified in all the earlier acts, by the omission of unnecessary introductory verbiage at the beginning of sections (since condemned as surplusage, by the Legislature itself, in Lord Brougham's Act of 1850), and otherwise; but wherever such omission occurs, the place and precise words omitted are indicated by marks or references. In this way, and in all other respects, the *ipsissima verba* of the statutes are preserved, while space is saved.

The present volume does not include acts applying exclusively to Scotland. The differences between the institutions and procedure of that country, and those of other parts of the United Kingdom, have rendered necessary separate legislation; and that for Scotland on this subject is sufficient for a separate volume, and would make the present volume (already sufficiently large) too bulky and unwieldy.

It is to be borne in mind, in using the volume, that some of the provisions in the general acts are not unfrequently varied by those in the special acts of particular companies or undertakings; and the "special act" is frequently referred

Construe-
tion: special
Acts.

ing in "repair any bridge, fence, approach, gate, or other work," and would appear therefore to be more properly described as relating to "Repair of Works."

The marginal note to § 66 of the same act is also in the statute book quite at variance with the text and intent of the section.

Again, the marginal note on one of the definitions in § 1 of the Cardwell Act, (XV. 1,) consists in the statute book of the word "Stations" alone (where the word "Wharf" or "Terminus" would have been not more applicable, nor less so); the definition to which that word is so applied being, however, a definition of the word "Near," and applying not only to "stations," (a term commonly used in relation to Railways, while the provisions in question are equally applicable to Canals), but, in the words of the act, to "stations, termini, or wharves."

It is perhaps unnecessary to multiply examples, which could easily be done.

to in this sense in the general acts. The Companies being assumed to be familiar with their own acts, provisions of the kind alluded to will readily present themselves to parties concerned.

Statistics,
and Finan-
cial results.

It may not be out of place here to present a few additional facts, illustrating the statistical and financial working and results of Railways in the United Kingdom, abstracted, for the most part, from official reports and returns presented to Parliament, or other authentic sources.

Extent of
Railways:
Mileage.

The following statement shows the extent of Railway lines authorized and constructed up to the end of the years 1856 and 1857, respectively :—

	1856.	1857.
Authorized by Parliament, Miles,	14,668	15,331
Of which had been abandoned,	1,495	1,504
Leaving authorized, { For England, 9,700 } { For Scotland, 1,647 } { For Ireland, 1,826 }	13,173	13,827
But compulsory powers for taking land, &c., expired, .	2,532	2,590
Leaving still authorized,	10,641	11,217
Constructed and opened, { In England, 6,384 } 31 Dec., 1856 and 1857, { In Scotland, 1,195 } { In Ireland, 1,056 }	8,635	9,019
Leaving in course of construction, or for which Parliament- ary powers remained in force,	2,006	2,198

Private
Lines.

In addition to the lines authorized by Parliament, some lines appear to have been constructed without special Parliamentary authority :—

	1856.	1857.
Lines authorized by Parliament, and open on December 31, as above, Miles,	8,635	9,019
Private lines for passenger traffic, not under Parliamen- tary sanction,	28	36
Mineral lines exclusively,	55	61
Total open on 31st December,	8,718	9,116

The Railways in the United Kingdom had already been constructed of different Gauges, in the earlier years, before the passing of the act of 1846 for regulating the gauge of future Railways.^a The general gauge is now the narrow gauge of 4 feet 8½ inches, prescribed for Great Britain by that act. The Irish gauge of 5 feet 3 inches, now universal in Ireland^b, is next in extent. The extent of the broad gauge, of 7 feet, is much smaller; and that of lines of mixed gauge, or of the narrow and broad gauge combined, is the smallest,—this double gauge existing only on a few lines in England, used by different companies, whose own lines are of different gauges, and whose carriages therefore could not run interchangeably without the double gauge. The following table shows the extent of each kind of gauge on Railways open at 31st December, 1857 ; and also the extent of Railways laid down as Single Lines :—

Miles of	England.	Scotland.	Ireland.	Total.
Narrow Gauge, . . .	5,776	1,269	—	7,045
Broad Gauge, . . .	740	—	—	740
Mixed Gauge, . . .	261	—	—	261
Irish Gauge, . . .	—	—	1,070	1,070
Total, . . .	6,777	1,269	1,070	9,116
Of which are Single Lines, . . . }	1,715	409	651	2,775

The number of Officers and Servants employed on Railways in the United Kingdom (exclusive of Directors and Auditors), on 30th June, 1856, was as follows ; but the number of miles then open being only 8,506, the number of persons employed

Numbers of
Employees.

^a 9 & 10 Vic. c. 57, (X.)

^b The only exceptions heretofore to the 5 ft. 3 in. gauge in Ireland were the Dublin and Kingstown line (6 miles, already referred to as the first-constructed railway in Ireland), and the late Atmospheric line from Kingstown to Dalkey

on the opened lines has since been increased in proportion to the additional extent since opened^a:—

30 June 1856.	No. of Persons employed on Railways then open : (8,506 Miles.)	No. of Persons employed on Railways then being constructed : (963 Miles.)	Total.
England, . .	84,376	23,852	108,228
Scotland, . .	11,635	5,300	16,935
Ireland, . .	6,106	7,321	13,427
Total, ^a .	102,117	36,473	138,590

Passengers. The number of Passengers conveyed by Railway in the United Kingdom, in the year ended 31st December, 1857, was 139,008,888 ; or in other words, so many journeys were travelled by passengers, each journey being reckoned as one passenger, whether the same person travelled once or more than once. They are classified as follows :—

Year 1857.	Number of Passengers.				Total.
	First Class.	Second Class.	Third Class, and Parliamentary	Mixed and Subscribers, not apportioned.	
England, .	15,671,096	36,603,060	63,562,252	22,398	115,858,806
Scotland, .	1,823,542	2,180,284	10,723,694	5,983	14,733,503
Ireland, .	1,112,188	3,382,941	3,912,183	9,267	8,416,579
Total, .	18,606,826	42,166,285	78,198,129	37,648	139,008,888

The preceding tables show how much greater in England than in the other portions of the United Kingdom is the

(1 mile and $\frac{3}{4}$ in length), which were of the narrow or 4ft. 8 $\frac{1}{2}$ in. guage ; and the Ulster Railway, which was originally of 6ft. 2in. guage. These lines have since been altered and made uniform with the general Irish guage, the rails having been taken up and relaid on the 5 ft. 3 in. guage ; and the portion of atmospheric line above named has been altered to an ordinary locomotive line.

^a The numbers on 30th June, 1857, since published, were, on 8,942 miles of Railway then open, 109,660 persons employed ; on 1,004 miles in course of construction, 44,037 ; total, 153,697 persons employed.

proportionate extent of Railway accommodation, as well the extent to which it is used. The following table may further illustrate this, and shows that much remains to be done before those portions of it, and especially Ireland, can be considered to be equally provided with and availing themselves of Railway communication :—

—	Area.		Population : Census of 1851.	Miles of Rail- way open.	No. of Passengers or Journeys in year.	Proportion of Miles of Railway		Proportion of Journeys to Population.
	Statute Acres.	Square Miles.				To Total Area.	To Popula- tion.	
England, .	37,324,915	58,320	17,927,609	6,706	115,858,806	1 to 9	1 to 2,673	6 $\frac{8}{10}$
Scotland, .	20,047,462	31,324	2,888,742	1,243	14,733,503	1 to 25	1 to 2,324	5 $\frac{1}{10}$
Ireland, .	20,314,150	31,741	6,552,386	1,070	8,416,579	1 to 30	1 to 6,124	1 $\frac{3}{10}$
United Kingdom, }	77,686,527	121,485	27,368,737	9,019	139,008,888	1 to 14	1 to 3,035	5 $\frac{1}{10}$

} of
Journeys for 1 of
Population.

The following tables exhibit the general Financial Results of all the Railways in the United Kingdom from which Returns are given, including 8,901 miles out of 9,019 open at the end of 1857.

The total Receipts from Traffic of the Railways in the Re- Receipts.
turns for the year 1857 were as follows :—

Traffic Receipts: 1857.	Miles.	For Passengers.			For Goods, Minerals, Live Stock, &c.			Total.	
		Amount.	Ave- rage per Mile.	Per centage Propor- tion of Receipts.	Amount.	Ave- rage per Mile.	Per centage Propor- tion of Receipts.	Amount.	Ave- rage per Mile.
England, .	6,610	£ 9,004,769	£ 1,362	43·87	£ 11,522,979	£ 1,743	56·13	£ 20,527,748	£ 3,105
Scotland, .	1,226	916,697	746	36·62	1,594,781	1,293	63·38	2,501,478	2,040
Ireland, .	1,064	671,332	631	58·65	474,052	445	41·35	1,145,384	1,076
United Kingdom, }	8,901	10,592,798	1,191	43·80	13,581,812	1,524	56·20	24,174,616	2,715

The Traffic Receipts may be further analyzed, in reference to passengers and goods, &c., respectively.

Passenger Receipts.

The Receipts for Passengers may be stated in Classes, as in the following Table:—

Passenger Traffic : 1857.	First Class.	Second Class.	Third Class, and Par- liamentary.	Mixed and Subscribers, not apportioned.	Total.
ENGLAND.	£	£	£	£	£
Amount of Passenger Receipts, . . .	2,753,123	3,147,398	2,921,158	183,090	9,004,769
Per centage proportion of Passenger Receipts, . . .	30·51	34·92	32·55	2·02	100·00
Average Passenger Receipts per mile, . . .	416	476	442	28	1,362
SCOTLAND.					
Amount, . . .	251,184	178,778	471,432	15,303	916,697
Per centage, . . .	27·36	19·51	51·47	1·66	100·00
Average per mile, . . .	204	146	384	12	746
IRELAND.					
Amount, . . .	163,161	248,812	244,628	14,731	671,332
Per centage, . . .	24·33	37·06	36·42	2·19	100·00
Average per mile, . . .	154	234	230	13	631
UNITED KINGDOM.					
Amount, . . .	3,167,468	3,574,988	3,637,218	213,124	10,592,798
Per centage, . . .	29·90	33·75	34·34	2·01	100·00
Average per mile, . . .	356	402	409	24	1,191

Receipts from Goods Traffic, &c.

The Receipts from Goods, Cattle, Minerals, and all traffic other than passenger traffic (but including Passengers' Luggage, Carriages, Mails, &c.), were in the same year as follows:—

Goods Traffic:—1857.	Quantity.	Receipts.
Merchandize, . . .	25,027,927 tons.	£ 7,781,743
Minerals, . . .	46,293,983 „	3,987,291
Live Stock, . . .	11,047,160 heads.	517,358
Parcels, &c. . .	—	1,295,420
Total, . . .	—	13,581,812

The published returns of Expenditure are not complete: ^{Expenditure.} and the total annual expenditure of all the Railways cannot therefore be given.

The general results, however, of such returns as are printed, ^{Working Expenses.} including the average working expenses of nearly all the Railways in Great Britain and Ireland, have been stated as follows in the Board of Trade Annual Report. The results exhibited by these figures speak well for the economical management of the Irish lines, as compared with the other portions of the United Kingdom. It is to be borne in mind that the Irish lines are exempt from some charges (such as the passenger tax, &c.) to which the English lines are subject; but this alone would not be sufficient to account for the difference in working expenses.

Working Expenses: 1857.	Average Working Expenses.	
	Per mile of Railway open.	Proportion of Working Expenses to Receipts.
England, . . .	£ 1,564	48 per cent.
Scotland, . . .	941	44 „
Ireland, . . .	464	38 „
United Kingdom,	988	47 „

The current Expenditure chargeable on Revenue, has been ^{Analysis of Expenditure.} distributed under the following heads:—

Expenditure:—1857.	Per cent. of whole Expenditure.			
	England.	Scotland.	Ireland.	United Kingdom.
Maintenance of Way,	15.79	14.18	14.59	15.51
Locomotive Expenses, and Repairs of Stock,	38.12	40.61	43.34	38.39
Traffic Expenses,	26.42	22.88	25.13	26.23
Rates and Government Duty, . . .	7.39	5.61	*4.58	7.10
Other Charges,	12.28	16.72	12.34	12.67
* No Government Duty in Ireland.				
Total,	100.00	100.00	100.00	100.00

Fares. Some instructive tables, illustrating the effect of the **Low Fares.** of Fares on the traffic, have been published in the Board of Trade reports, showing the average Fares and Receipts for each Class. The following is a summary of them for the six years published :—

Years.		Average Fare, per Mile Travelled.				Average Amount of Receipts for Passengers, per Mile.			
		First Class.	Second Class.	Third Class.	All Classes (exclusive of Subscribers, &c.)	First Class.	Second Class.	Third Class.	Total (exclusive of Subscribers &c.)
England,	1852,	d. 2.11	d. 1.43	d. 0.87	d. 1.34	£ 379	£ 471	£ 350	£ 1,200
	1853,	2.13	1.44	0.86	1.32	403	474	378	1,255
	1854,	2.10	1.42	0.85	1.29	406	486	407	1,299
	1855,	2.09	1.43	0.86	1.28	400	472	423	1,295
	1856,	2.07	1.44	0.83	1.26	411	476	448	1,335
	1857,	2.01	1.41	0.87	1.26	416	476	442	1,334
Scotland,	1852,	1.97	1.51	0.77	1.07	151	177	328	656
	1853,	2.19	1.74	0.84	1.18	181	179	345	705
	1854,	1.93	1.53	0.78	1.06	198	167	367	732
	1855,	1.51	1.43	0.73	0.96	196	145	369	710
	1856,	1.70	1.54	0.85	1.09	202	149	381	732
	1857,	1.77	1.55	0.87	1.13	204	146	384	734
Ireland,	1852,	1.72	1.31	0.82	1.12	150	245	259	654
	1853,	1.74	1.29	0.82	1.13	168	264	251	683
	1854,	1.71	1.29	0.89	1.16	139	221	231	591
	1855,	1.71	1.39	0.89	1.19	144	232	224	600
	1856,	1.82	1.42	0.92	1.24	155	236	236	627
	1857,	1.81	1.35	0.90	1.20	154	234	230	618
United Kingdom,	1852,	2.15	1.42	0.86	1.30	326	411	337	1,074
	1853,	2.11	1.44	0.86	1.29	349	413	361	1,123
	1854,	2.05	1.42	0.86	1.26	349	416	382	1,147
	1855,	2.01	1.43	0.85	1.25	343	402	393	1,138
	1856,	2.02	1.44	0.84	1.24	352	404	413	1,169
	1857,	1.97	1.41	0.88	1.25	356	402	409	1,167

The result of a comparison of the Fares per Mile, with Receipts per Mile, on the Mean of the United Kingdom the foregoing Table, for the respective classes (especially regard to the second and third classes, which make up the fourths of the passenger traffic), tends, like the results of penny postage system and other branches of business, to support the principle of small remunerative charges and la

returns, little units and great totals, multitude and magnitude.* The cheap excursion trains, for the accommodation of the multitude, form no inconsiderable or unprofitable element in the aggregate of Railway passenger traffic ; and on the third class, the lowest fare (0·84) gives the highest receipts (£413) per mile, while the increased fare of the next and last year (0·88) gave only £409. On the second class there was, on a comparison of 1854 and 1855, a diminution of receipts with an increase of fares, little altered and never recovered by later variations : the low fare in 1854 of this class (1*d.* 42) gave its highest receipts (£416,) while the higher fares (1*d.* 43 and 1*d.* 44) in 1855 and 1856 gave the lowest receipts (£402 and £404.) The rise or fall of fares is probably felt by the first class in a less degree ; but the lowest rate of fares for this class (1*d.* 97) gives the largest receipts per mile (£356,) while the highest fare per mile (2*d.* 15) gave the lowest receipts (£326). The lowest average fare of all classes (1*d.* 24) gives in 1856 the highest receipts per mile (£1,169), and the highest average fare (1*d.* 30) gave in 1852 the lowest receipts (£1,074.) The dividends on ordinary share capital, according to the same report, (after payment of interest and preference dividends, &c.) were in the year of highest average fare and lowest mileage receipts (1852,) at the average rate of 2·40, as against 3·40 in 1856, the year of lowest average fares and highest mileage receipts. These facts tend to show that in this, as in other instances, moderate remunerative charges are most consistent with profit, and that the real interests of the railways and of the public are alike.

The increase of postal communication, from its increased cheapness and convenience, is exhibited in the fact that the

Cheap
Postage.

* It is probably unnecessary to say that this observation, notwithstanding the wholesome effect of legitimate and rational competition as opposed to stagnant monopoly, is not intended to apply to the unremunerative charges induced by inconsiderate rivalry, which have been shown by experience to result in anything but increased returns.

number of letters sent by post in a year has increased from 75,908,000 in 1839, the year before the great reduction of postage, to 504,421,000 in the year 1857,—an increase of 428,513,000, or nearly seven-fold, under the penny postage system. At the same time, the revenue of the Post Office has increased from £2,346,278 in the former year, £3,035,713 in the latter,—an increase of £689,435.

Postal
Service by
Railway;

The first act in this volume is one of the year 1838, for the conveyance of Mails by Railways. While the two modes of communication, that by Post and that by Railway, may be regarded in some respects as rivals, they may in others and to a more important degree be looked upon as auxiliaries: the one affording the means of quick and cheap written communication, often serving as a substitute for the other, while the latter affords the means of still more rapid personal communication; the Railway the right hand and most efficient instrument of the Post, and the latter often inducing and increasing personal communication: both yielding to the telegraph in rapidity and brevity, as well as in the power of passing where no other agency yet known can traverse.

The following are some particulars of the extent and general results of the postal service by Railway:—

Year 1857.	Mails conveyed by Railways.				
	No. of Miles per Week-day.	Charge per Mile.			
		Highest.	Lowest.	Average.	
England,	23,620	s. d. 3 9	d. 8	s. d. 0 8½	
Scotland,	3,702	3 2	8	0 10½	
Ireland,	2,850	4 6	4	1 4	
United Kingdom,	30,172	4 6	8	0 9½	

These and the following particulars as to the postal service are obtained from the annual report of the Post Office, which

does not, however, show how the returns are made up, or the causes of the very wide differences of charge, varying from one-eighth of a penny to four shillings and sixpence per mile, nor does it state to what extent the low rates prevail.

The Post Office expenditure for conveyance of mails by Railway, properly appertaining to the service of each year, is stated for 1857, at £420,000 ; and for the previous year (1856), at £419,000.

The total number of letters, &c., delivered by post in the United Kingdom in the last year is estimated as follows:—

Year 1857.	No. of Letters.	Proportion of Letters to Population.
England,	410,008,000	21 to each person.*
Scotland,	51,612,000	16 „
Ireland,	42,806,000	7 „
Total Letters,	504,421,000	Average weight,* under $\frac{1}{2}$ oz
Newspapers,	71,000,000	Average weight, over $2\frac{1}{2}$ oz.
Book Packets,	6,000,000	Average weight, $5\frac{1}{2}$ oz.
Total of Letters, News- papers, and Book Packets, }	581,421,000	{ * “ Excluding official packets,” in this estimate of weight.

The numbers carried by Railway are not distinguished from the rest; and there are, therefore, no means of ascertaining from the annual Post Office report how much of these 581,421,000 letters, papers, and parcels,—weighing in the aggregate, according to the above averages, 12,081 tons and 14 cwt.,—was, with their guards, sorters, &c., carried by Railway, for the £420,000 paid to the Railways for the Mail service of the year in question.

*The proportion of letters to the population of some of the large towns in the United Kingdom is stated as follows, the numbers representing the number of letters to each unit of population:—

In London, . . . 43
Edinburgh, . . . 36
Dublin, . . . 30
Manchester, . . . 30

In Liverpool, . . . 29
Birmingham, . . . 27
Glasgow, . . . 27
Leeds, . . . 24

Mails carried not by Railway.

The Mails carried otherwise than by Railway appear, for the same year, as follows :—

Year 1857.	Mails by Coaches, Omnibuses, Mail Carts, &c.		Mails by Boats and Packets in the United Kingdom.			Mails conveyed on Foot.	
	No. of Miles per Week-day.	Average Charge per Mile.	No. of Miles per Week-day.	Charge per Mile.		No. of Miles per Week-day.	Average Charge per Mile.
				Maxi- mum.	Mini- mum.		
England, . . .	19,097	d. 2½	1,451	s. d. 5 6¼	d. ½	46,643	d. 1½
Scotland, . . .	5,297	2½	1,376	1 1¾	½	10,068	1½
Ireland, . . .	8,603	2	52	0 5¼	¼	6,721	1
United Kingdom,	32,997	2½	2,879	5 6¼	½	63,432	1½

It thus appears that out of the total number (129,480) of miles per week-day, mails are still carried over a greater number of miles by Coaches and Carts, &c., than by Railway; and the number of miles over which they are carried on Foot is about double that of either of the former modes of conveyance, and more than both put together.*

The foregoing figures would give (including an estimate of about one-half the week-day mileage for Sundays) the following numbers of miles over which mails are carried in the United Kingdom in a year :—

By Railway,	10,228,308 miles per annum.
By other Conveyances,	12,161,964 "
On Foot,	21,503,448 "
Total,	43,893,720 "

Accidents.

In regard to the Safety of railway travelling, from the continued precautions taken, it is satisfactory to find it stated in the last annual Board of Trade Report, that in 1856, "the

* The Post Office report in 1858 states that "of the whole number of letters last year (1857), nearly a quarter were delivered in London and the suburban district; and counting those also which were dispatched, nearly one-half passed through the London Office."

degree of safety with which passengers have been conveyed is greater than in any year since 1851." It appears from the same report, that out of the 130 millions of passengers who travelled by Railway in 1856 in the United Kingdom, only 1 in 16,168,449 was killed, and 1 in 458,370 injured, from causes beyond their own control.^a

The facts supply an antidote to unfounded panic. Before the very salutary requirements in regard to Railways, of 3 & 4 Vic., c. 97, § 3, and 5 & 6 Vic., c. 55, § 7, 8, there was no provision for reporting to any organized authority "moving accidents by flood and field," or by coach and horses, by boats, &c.; and the majority of coach and car accidents, or the mishaps of ordinary bygone conveyances, were probably never heard of through "the usual channels of information." The public, and usually the Companies too, are pretty sure to hear of every "alarming Railway accident."^b There are, however, no means of comparing the number of Railway Accidents with the number of accidents by other public conveyances; but it may be fairly predicated that the number of the former, as compared with the number of persons conveyed, is proportionately far smaller than of the latter^c. No doubt the number would be still smaller if the public and the post office would be content with something less than the now common speed of Express and Mail trains.

^a It has since appeared that in 1857, the numbers were, from causes beyond their own control, 1 killed in 5,560,355 of passengers, and 1 hurt in 220,299.

^b Since this was written, Dr. Lankester has expressed nearly the same idea in connection with another subject. He is reported thus:—

"Were the same number of deaths to occur on a Railway, as happened every year in consequence of the state of the Serpentine, a great deal would be heard about it: but because the Serpentine had been going on slowly destroying life for centuries, their forefathers not having cared about it, therefore it would seem to be inferred that they of the present generation ought not to care about it."—*Times*, 23 July 1858.

^c Captain Galton's report to the Board of Trade, published since this was written, gives a return of accidents by the French diligences of the Messageries Impériales et Générales, from which it appears that the general average proportion of accidents to passengers by those conveyances gives 1 killed in 335,463, and 1 injured in 29,871.

The following is a summary of Railway Accidents in the United Kingdom in the year 1856^a:—

Accidents: 1856. ^a	England.		Scotland.		Ireland.		Total.	
	Killed.	Injured	Killed.	Injured	Killed.	Injured	Killed.	Injured
To Persons, from Causes beyond their own Control:								
Passengers,	8	255	—	25	—	2	8	282
Servants of Companies, or of Contractors, . .	23	36	1	2	6	8	30	46
Total,	31	291	1	27	6	10	38	328
To Persons, from their own Misconduct or Want of Caution:								
Passengers,	15	11	3	3	1	2	19	16
Trespassers,	51	5	13	2	3	—	67	7
Suicide,	3	—	1	—	—	—	4	—
Servants of Company, or of Contractors, . .	96	30	11	3	5	1	112	34
Total,	165	46	28	8	9	3	202	57
To Persons crossing at Level Crossings, and from other Causes,	36	7	1	2	4	—	41	9
Total, from all Causes,	232	344	30	37	19	13	281	394
	576		67		32		675	
Total Number of Passengers, , of Railway Servants, .	108,368,901	108,228	13,097,238	16,935	7,881,453	13,427	129,347,592	138,590
Total of Persons using the Railway,	108,477,129		13,114,173		7,894,880		129,486,182	

^a The Board of Trade Report for 1857 has since appeared, from which the following particulars for that year are obtained. Total number of Passengers in that year, 139,008,888; of Railway Servants, 153,697; total, 139,162,585 persons. Out of these, 25 Passengers are returned as having been killed by accidents from causes beyond their own control. The total numbers of accidents on Railways to persons of all descriptions, in 1857, were—

In England: Killed, 190	} 236	Injured, 691	} 738	Total, 881	} 974.
„ Scotland, „ 24		„ 4		„ 65	
„ Ireland, „ 22		„ 6		„ 28	

It may be useful to add the following summary of Fees Fees. allowed by the statutes herein contained, where other provi- sion is not made in the Special Acts of Companies.

TABLE OF FEES.

8 Vic., c. 16, § 10.	Copy or extracts from shareholders' address book,	6d. per 100 words.
„ § 11.	Share certificate,	2s. 6d.
„ § 13.	New certificate to replace share certificate lost or destroyed,	2s. 6d.
„ § 15, 62.	Registry and certificate of transfer of shares or stock,	2s. 6d.
„ § 18, 19.	Registry of probate of will and declaration, or of transmission of shares otherwise than by transfer,	5s.
„ § 47.	Registry of transfer of mortgages,	2s. 6d.
8 Vic., c. 18, § 50.	Inspection of verdict and judgment of jury awarding compensation for land,	1s.
	Copy or extracts from ditto,	6d. per 100 words.
14 & 15 Vic., c. 70, § 4, 9, 11.	Inspection of plans and sections, and books of reference, &c., deposited with clerks of peace, clerks of unions in Ireland, and other local officers,	1s.
1 Vic., c. 83, § 2.		
	And for every hour after first hour of such inspection,	1s.
	Copies or extracts therefrom,	6d. per 100 words.
14 & 15 Vic., c. 99, § 14.	Copies or extracts from public documents admissible in evidence,	4d. per folio of 90 words.
9 & 10 Vic., c. 28, § 19.	Inspection of returns to Registrar of joint stock companies,	2d. 6d.
	Certificate from Registrar of joint stock companies,	2s. 6d.

The following is a summary of Stamp Duties required on Stamp bonds, transfers, proxies, &c. Duties:

On Bonds and Mortgages ; under 13 & 14 Vic., c. 97:— On Bonds:

BONDS and MORTGAGES in England and Ireland, and personal Bonds in Scotland, given or made as security for the payment of any definite and certain sum of money,		s.	d.
Not exceeding £50,		1	3
Exceeding £50, and not exceeding £100,		2	6
„ 100,	„ 150,	3	9
„ 150,	„ 200,	5	0
„ 200,	„ 250,	6	3
„ 250,	„ 300,	7	6
Exceeding £300, then for every £100 or fractional part of £100,			
the sum of,		2	6

Stamp Duty: On Transfers of Mortgages; under 13 & 14 Vic. c. 97 :—

on Transfers of Mortgages: Any TRANSFER or Assignment, Disposition, or Assignment of any Mortgage or Wadset, or of any such other Security as aforesaid, or of the benefit thereof, or of the Money or Stock thereby secured ;
Where no further sum of Money or Stock shall be added to the Principal Money or Stock already secured,

If such Principal Money or Stock already secured shall not exceed in amount or value in the whole the sum of £1,400,

The same Duty as on a Mortgage or Wadset for the total Amount or Value of such Principal Money or Stock.

And if such Principal Money or Stock shall exceed in amount or value in the whole the sum of £1,400, .

£1 15s.

And where any further sum of Money or Stock shall be added to the Principal Money or Stock already secured,

The same Duty as on a Mortgage or Wadset for such further Money or Stock only.

And in every other case not hereinbefore expressly provided for, such Transfer, Assignment, Disposition, or Assignment shall be chargeable with the Duty of,

£1 15s.

on Transfer of Shares. On Transfers of Shares or Stock ; under 13 & 14 Vic. c. 97 :—

CONVEYANCE, whether Grant, Disposition, Lease, Assignment, Transfer, Release, Renunciation, or of any other kind or description whatsoever, upon the Sale of any Lands, Tenements, Rents, Annuities, or other Property, real or personal, heritable or moveable. or of any Right, Title, Interest, or Claim in, to, out of, or upon any Lands, Tenements, Rents, Annuities, or other property, that is to say, for and in respect of the Principal or only Deed, Instrument, or Writing, whereby the Lands or other Things sold shall be granted, leased, assigned, transferred, released, renounced, or otherwise conveyed to or vested in the Purchaser or Purchasers, or any other Person or Persons by his, her, or their direction ;

Where the purchase or consideration money therein or thereupon expressed shall not exceed £25,

£ s. d.

And where the same shall exceed £25, and not exceed £50,

"	"	50,	"	75,	.	0	2	6
"	"	75,	"	100,	.	0	5	0
"	"	100,	"	125,	.	0	7	6
"	"	125,	"	150,	.	0	10	0
"	"	150,	"	175,	.	0	12	6
"	"	175,	"	200,	.	0	15	0
"	"	200,	"	225,	.	0	17	6
"	"	225,	"	250,	.	1	0	0
"	"	250,	"	275,	.	1	2	6
"	"	275,	"	300,	.	1	5	0
"	"	300,	"	350,	.	1	7	6
"	"	350,	"	400,	.	1	10	0
"	"	400,	"	450,	.	1	15	0
"	"	450,	"	500,	.	2	0	0
"	"	500,	"	550,	.	2	5	0
"	"	550,	"	600,	.	2	10	0
"	"		"		.	2	15	0
"	"		"		.	3	0	0

Introduction.

XXXV

And where the purchase or consideration money shall exceed £600, then for every £100, and also for any fractional part of £100,

Stamp Duty:
on Transfers;
£ s. d.
0 10 0

And it is hereby directed, that the Purchase Money or Consideration *shall be truly expressed and set forth in words at length* in or upon every such principal or only Deed or Instrument of Conveyance; and where such Consideration shall consist either wholly or in part of any Stock or Security, the Value thereof respectively, to be ascertained as hereinafter mentioned, shall also be truly expressed and set forth in manner aforesaid in or upon every such Deed or Instrument; and such Value shall be deemed and taken to be the Purchase or Consideration Money, or Part of the Purchase or Consideration Money, as the case may be, in respect whereof the *ad valorem* Duty shall be charged as aforesaid.

And where the Consideration, or any Part of the Consideration, shall be any Stock in any of the Public Funds, or any Government Debenture, or Stock of the Bank of *England* or Bank of *Ireland*, or any Debenture or Stock of any Corporation, Company, Society, or Persons or Person, payable only at the Will of the Debtor, the said Duty shall be calculated (taking the same respectively, whether constituting the whole or a part only of such Consideration,) according to the average selling price thereof respectively, on the Day or on either of the Ten Days preceding the Day of the Date of the Deed or Instrument of Conveyance, or if no Sale shall have taken place within such Ten Days, then according to the average selling Price thereof on the Day of the last preceding Sale; and if such Consideration or Part of such Consideration, shall be a Mortgage, Judgment, or Bond, or a Debenture, the amount whereof shall be recoverable by the Holder, or any other Security whatsoever, whether payable in Money or otherwise, then such Calculation shall be made according to the Sum due thereon for both Principal and Interest.

COVENANT.—Any Deed containing a Covenant for the Payment or Repayment of any Sum or Sums of Money, or for the Transfer or Retransfer of any Share or Shares in the Government or Parliamentary Stocks or Funds, or in the Stock and Funds of the Governor and Company of the Bank of *England*, or of the Bank of *Ireland*, or of the *East India* Company, or of the *South Sea* Company, or of any other Company or Corporation, in any case where a Mortgage, if made for the like purpose, would be chargeable under this Schedule with any *ad valorem* Duty exceeding in Amount the Sum of £1 15s.; or for the payment of any Annuity, or any sums at stated periods in any case where a Bond for the like purpose would be chargeable with any such Duty,

The same *ad valorem* Duty as on a Mortgage or Bond respectively for the like purpose. For the duty thereon, see *Bond or Mortgage*. (p. xxxiii.)

Stamp Duty on Scrip Certificates, where transferable without a Deed in Writing; under 16 & 17 Vic. c. 63:— on Scrip Certificates

On any SCRIP CERTIFICATE,—that is to say, any Document denoting, or intended to denote, the Right or Title of the Holder

**Stamp
Duties:**

thereof or any Person to any Share or Shares in any Joint Stock or other Company, or proposed or intended Company,—or any Certificate declaring or entitling the Holder thereof or any Person to be or become the Proprietor of any Share or Shares of or in any such Company,—where such Certificate, or the Right or Title to such Share or Shares, shall be or be intended to be transferable by the Delivery of such Certificate or otherwise than by Deed or Instrument in Writing,

£ s
0 (

on Proxies.

Stamp Duty on Proxies; under 19 & 20 Vic., c. 81.

On a PROXY for voting under Companies Clauses or other Acts (available for one Meeting only, the time for holding which is to be specified in the Proxy, or any adjournment of such Meeting; 7 Vic., c. 21, § 6,)

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**Clearing
House.**

All the statutes contained in this volume are “Public General Acts,” except one, introduced as a “Private Bill” and classed in the statute-book amongst “Local and Personal Acts,” but declaring itself a “Public Act” (XXXI. 28); and being, as it may be described for the sake of further variety, a “Special Act,” as other acts of like kind have of late been styled. The act here alluded to is that relating to the Railway Clearing House in London, (13 & 14 Vic. cap. xxxi.) There is also a Clearing House in Dublin, chiefly for Irish Railways,—a voluntary association, not at present under any Act of Parliament, but self-governed and self-regulated, and the less useful or efficient for its object.

The following list contains the names of Railway Companies associated in the Railway Clearing House in London, for the whole or parts of their traffic, under the above act :—

RAILWAYS, &c., IN CLEARING HOUSE IN LONDON.

Ambergate, Nottingham, and Boston.	Caledonian.
Bedale and Leyburn.	Carlisle and Silloth Bay.
Birkenhead, Lancashire, and Cheshire Junction.	Chester and Holyhead.
Blackburn.	Cockermouth and Workington.
Boston, Sleaford, and Midland Counties.	Coleford, Monmouth, Usk, and Portpool.
Bradford, Wakefield, and Leeds.	Cork and Bandon.
Buckinghamshire.	Crieff Junction.
	Darlington and Barnard Castle.

3, &C., IN CLEARING HOUSE IN LONDON—*continued.*

Clearing
House.

Belfast Junction.	Monkland.
Drogheda.	Monmouthshire.
Down, and Callander.	Newcastle and Carlisle.
Enniskillen.	Newmarket.
Arbroath.	Newport, Abergavenny, and Hereford.
Ch, and Aberdeen.	Newry and Armagh.
	Norfolk.
	North British.
ire.	North Eastern.
ities.	North and South Western Junction.
on.	North Staffordshire.
nd Glasgow.	North Western.
Perth, and Dundee.	North Yorkshire and Cleveland.
ross.	Oxford, Worcester, and Wolver-
reston, and West Riding.	hampton.
Yde Junction.	Peebles.
	Perth and Dunkeld.
Paisley Joint.	Portadown, Dungannon, and Omagh.
South Western.	Port Carlisle.
rn.	Preston and Wyre.
rn and Western.	Rhymney.
rn.	St. Andrews.
ton, and Dunstable.	St. George's Harbour Co.
	St. Helens.
lderness.	Scottish Central.
Eastern.	Scottish North Eastern.
Windermere.	Shrewsbury and Hereford.
ction.	Shropshire Union.
nd Yorkshire.	South Staffordshire.
l Carlisle.	South Yorkshire.
ord, and Halifax.	South Wales.
nd Kingston.	Stirling and Dunfermline.
	Stamford and Essendine.
Blackwall.	Stockton and Darlington.
North Western.	Taff Vale.
South Western.	Ulster.
ury, and Southend.	Ulverstone and Lancaster.
and Enniskillen.	Vale of Clwyd.
Sheffield, and Lincoln-	Warrington and Stockport.
	Waterford and Kilkenny.
South Junction, and	Waterford and Limerick.
l.	West Hartlepool.
l Carlisle.	Whitehaven and Furness.
	Whitehaven, Cleator, and Egremont.
st Western of Ireland.	Whitehaven Junction.

owing list gives the names of Companies associated
h Railway Clearing House. The list is not confined
y Companies, but includes other Companies, &c.,

Clearing
House.

availing themselves of the advantage of an independent audit afforded by that establishment :—

RAILWAYS, &c., IN CLEARING HOUSE IN DUBLIN.

Ballymena and Portrush.
Belfast and Ballymena.
Chester and Holyhead.
City of Dublin Steam Packet.
Clyde Shipping Co.
Cork River Steamers.
Cork Steam Ship Co.
Dublin and Glasgow Steam Packet.
Dublin and Wicklow : with
Dublin and Kingstown.
Fishbourne, J.
Great Southern and Western.
Irish South-Eastern.

Killarney Junction.
Limerick and Castleconnell.
Limerick and Ennis.
Limerick and Foynes.
Londonderry and Coleraine.
Londonderry and Enniskillen.
Passengers Assurance Co.
Waterford and Kilkenny.
Waterford and Limerick.
Waterford and Tramore.
Waterford Steam Ship Co.
Wexford and Bagnalstown Coaches.

Although some of the foregoing statements may appear to be hardly within the scope of the more immediate purpose, as already explained, of this publication, it is hoped that the information contained in them may not be altogether useless or uninteresting.

ARTHUR MOORE.

*Monkstown Lodge, Co. Dublin,
2nd August, 1858.*

[NOTE.—The preceding pages were in type before the publication of the Board of Trade Report for 1857, from which the statistical results for that year have now been added, in notes or otherwise, while these pages were in the press.—*November, 1858.*]

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RAILWAY ACTS, &c.

MARKS OF REFERENCE.

Roman Numbers, I. II. III. &c., in the Notes and Index, refer to the respective Acts distinguished by those Numbers, which are printed at the head of each page.

Figures, 1. 2. 3. &c., refer to the Sections of the Acts, also printed at the head of each page.

Thus, the Marks "XI. 16," in the note in page 2, refer to Act XI, section 16:—
"11" in page 3, refer to Section 11 of Act V.

I.—RAILWAY CONVEYANCE OF MAILS.

1 & 2 VICT. CAP. 98.

Act to provide for the Conveyance of the Mails
by Railways.

[14th August, 1838.]

WHEREAS it is expedient that Provision should be made for the Conveyance of the Mails by Railways at a reasonable Rate of Charge to the Public: Be it enacted by the Queen's Most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That in all Cases of Railways already made or in progress, or to hereafter made, within the United Kingdom, by which Passengers or Goods shall be conveyed in or upon Carriages drawn or impelled by the Power of Steam, or by locomotive or stationary Engines, or animal or other Power whatever, it shall be lawful for the Postmaster General to require any such Railway Company to convey the Mails in such way and at such times as he may direct:

For the sake of brevity, the words "by the Queen's Most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same," which are used at the commencement of every statute, will be repeated in these pages, in the acts following this. The place of these words will be indicated by the marks ... at the commencement of each act.

Notice.

and Com-
pany to do it
to his satis-
faction.Time, Speed,
Stoppages, to
be regulated
by Post
Office, for
Mails and
their Officers.

Proviso:

Speed not to
exceed maxi-

General, by Notice in Writing under his Hand delivered to the Company of Proprietors of any such Railway, require that the Mails or Post Letter Bags shall, from and after the Day to be named in any such Notice (being not less than Twenty-eight Days from the Day very thereof,) be conveyed and forwarded by such Company on their Railway, either by the ordinary Trains of Carriages, or by special Trains, as need may be, at such Hours or Times in the Day or Night as the Postmaster General shall direct, together with the Guards appointed and employed by the Postmaster General in charge thereof, and any other Officers of the Post Office: and thereupon the said Company shall, from and after the Day to be named in such Notice, at their own Cost, provide sufficient Carriages and Engines on such Railways, for the Conveyance of such Mails and Post Letter Bags, to the Satisfaction of the Postmaster General, and shall receive, take up, carry, and convey, by such ordinary or special Trains of Carriages or otherwise, as Need may be, all such Mails or Post Letter Bags as shall for that Purpose be tendered to them, or any of their Officers, Servants, or Agents, by any Officer of the Post Office, and also receive, take up, carry, and convey, in and upon the Carriages carrying such Mails or Post Letter Bags, the Guards in charge thereof, and any other Officers of the Post Office, and shall receive, take up, deliver, and leave such Mails or Post Letter Bags to the Guards, and Officers at such Places in the Line of such Railway, on such Days, at such Hours or Times in the Day or Night, and subject to all such reasonable Regulations and Restrictions as to Speed of travelling, Times, and Duration of Stoppages, and Times of Arrival, as the Postmaster General shall in that Behalf direct: Time to Time order or direct: Provided always, that the Rate of Speed to be required shall in no Case exceed

* Under an act of 1847 (10 & 11 Vic. c. 85,) the Post Office may send mails without guards or other officers in charge of them: (XL 16.)

maximum Rate of Speed prescribed by the Directors of each Railway or Railways for the Conveyance of Passengers by their First-class Trains^a; but that no Alteration in the Rate of Speed of any Train by which Mails shall be conveyed shall be made until Six Calendar Months previous Notice shall be given to the Postmaster General of any such intended Alteration.

maximum rate of Railway;

and Six Months notice before Company make any alteration.

And be it enacted, That^b it shall be lawful for the Postmaster General (if he shall see fit) to require that the whole of the Inside of any Carriage used on any Railway for the Conveyance of Mails or Post Letters shall be exclusively appropriated for the Purpose of carrying the Mails.

Post Office may require exclusive use of a Mail Carriage.

The Company of Proprietors of any such Railway shall be required so to do by the Postmaster General, provide and furnish (in addition to the Carriages aforesaid) a separate Carriage or separate Carriages, fitted up as the Postmaster General, or such Person as he shall nominate in that Behalf, shall direct, for the Purpose of sorting Letters therein; and shall furnish the same Carriage or Carriages by their Railway, at such Hours or Times, and subject to all such reasonable Regulations as aforesaid^c, as the Postmaster General shall in that Behalf order or direct; and such Company of Proprietors shall receive, take up, carry, and convey, by such last-mentioned Carriage or Carriages, all

Post Office may require separate Carriages for Sorting Letters.

provisions relating to speed are altered, and the powers of the Postmaster General extended, by § 11 of 7 & 8 Vic. c. 85, (V. 11.)

The words "And be it enacted that" will not be repeated at the beginning of various sections in which they were used before the passing of Lord John Russell's act of 13 Vic. c. 21, (1850,) "for shortening the Language used in Acts of Parliament;" by which act (§ 2,) these words are for the future dispensed with, and they have accordingly, since 1850, ceased to be used in the

The following are the words of § 2 of that act:—"2. Be it enacted, that all Acts shall be divided into Sections, if there be more Enactments than one in each Act, and each Section shall be deemed to be substantive Enactments, without any Introductory Words."

The place of these introductory words, herein omitted at the beginning of Acts in which they were used before that act came into operation, from the commencement of the session next after June, 1850,) will be supplied by the marks ...

(p. 2.)

such Post Letter Bags and Officers of the Post Office as the Postmaster General shall reasonably require shall deliver and leave any Post Letter Bags and Officers of the Post Office, at such Places on the Line of Railway as the Postmaster General shall in that behalf from Time to Time reasonably order and direct.

Post Office may send their own Mail Coaches and Carts on Railway instead of Company's Carriages:

4....In case the Postmaster General shall at any time be desirous of sending by any such Railway any of Majesty's Mail Coaches or Mail Carts, with the Mails or Post Letter Bags and Guards thereof, and Carriages for sorting Letters, with any Officers of the Post Office therein, instead of sending the said Mails or Post Letter Bags, Guards, and Officers of the Post Office by Carriages to be provided by such Railway Company as aforesaid, then and in any such Case such Railway Company shall, at the Request of the Postmaster General, signified by such Notice as aforesaid*, cause Mail Coaches or Mail Carts, with the Mails or Post Letter Bags and Guards thereof, and Carriages for sorting Letters, with any Officers of the Post Office therein, to be conveyed by the usual or proper Trucks or Frames on their said Railway, subject to such Regulations and Restrictions of the Postmaster General herein-before mentioned*.

Company to provide Trucks, &c., for same.

Post Office may regulate Railways and their Officers, for Conveyance of Mails:

and Company and their Servants to obey Post Office regulations:

5....For the greater Security of the Mails or Post Letter Bags so to be carried or conveyed by Railways, the Company of Proprietors of such respective Railways along which such Mails or Post Letter Bags, Coaches, or Carts and Carriages for sorting Letters shall be so required by the Postmaster General to be conveyed, and their respective Officers, Servants, Agents, shall obey, observe, and perform all such reasonable Regulations respecting the Conveyance, Sorting, and leaving of such Mails and Post Letter Bags, Guards, and Officers of the Post Office, Mail Coaches or Carts and Carriages, on any such Railways, or

Line thereof, as the Postmaster General, or such Officer of the Post Office as he shall nominate in that Behalf, shall in his Discretion from Time to Time give or make: Provided always, that it shall not be lawful for any Officer or Servant of the Post Office to interfere with or give Orders to the Engineer or other Person having the Charge of any Engine upon any Railway along which Mails or Post Letter Bags shall be conveyed; but if any Cause of Complaint shall arise, the same shall be stated to the Conductor or other Officer of the Railway Company having the Charge of the Train, or to the Chief Officer at any Station upon the Railway; and in case of any Default or Neglect on the Part of any Officers or Servants of the Railway Company to comply with any of the Regulations of the Postmaster General, or other Officer of the Post Office so to be nominated as aforesaid, the Railway Company shall be wholly responsible for the same.

except Engine Driver;

but may complain to Guard or Station-Master.

Company responsible for non-compliance with Post Office regulations.

6....Every Company of Proprietors of any Railway along which such Mails or Post Letter Bags, Mail Coaches, Carts, or Carriages shall be so required by the Postmaster General to be conveyed, shall be entitled to such reasonable Remuneration to be paid by the Postmaster General to any such Company of Proprietors, for the Conveyance of such Mails, Post Letter Bags, Mail Guards, and other Officers of the Post Office, Mail Coaches, Carts, and Carriages, in manner required by such Postmaster General, or by such Officer of the Post Office as he shall in that Behalf nominate as aforesaid, as shall (either prior to or after the Commencement of such Service) be fixed and agreed on between the Postmaster General and such Company of Proprietors, or in case of Difference of Opinion between them then as shall be determined by Arbitration as herein-after provided; but so that the Services which may be required by the Postmaster General, or by such Officer of the

Remuneration to Railway Companies for Postal service, to be agreed upon by them with Postmaster General;

or be settled by arbitration;

but service to be performed although remuneration not settled.

Post Office as he in that behalf shall nominate as said, to be performed by any such Company of Proprietors, be not suspended, postponed, or deferred by reason of such Remuneration not having been then fixed or agreed on between the said Postmaster General and such Company of Proprietors, or by reason of any Award on any Reference to Arbitration to determine the Remuneration not having been then made.

Post Office may require additional services beyond agreements entered into;

Notice.

and fresh agreements may be entered into;

or recourse may be had to arbitration;

7....Notwithstanding any Agreement entered into between the Postmaster General and any such Company, or any Award to be made on any such Reference as aforesaid, fixing the Amount of Remuneration to be paid to such Company for any Services to be rendered by them as aforesaid, it shall be lawful and competent to and for the Postmaster General, by Notice in writing to require, from and after the Day to be named in such Notice, not being less than Twenty-eight Days from the Delivery thereof, any Addition to be made to the Services in respect of which such Agreement was entered into or Award made; and in any such Case and also in case of a Discontinuance of any Part of the Services as herein-after provided^a, a fresh Agreement shall be entered into between the Postmaster General and such Company, regulating the future Amount of Remuneration to be paid by the Postmaster General to such Company for such increased or diminished Services, as the Case may be; or if the Parties cannot agree on such Amount the same shall be referred to Arbitration in like Manner as herein-before is mentioned and herein-after provided^b as to any original Agreement and such Arbitrators shall have Power to award such Compensation they may consider reasonable, to be paid to any Railway Company for any Loss that may have been occasioned to them by the Discontinuance or Alteration of the Services previously agreed to be performed by them by any Train or Carriage specially required by the Postmaster General to be forwarded

^a § 8, 9.

^b § 6 and § 16-18, as to Arbitration.

Conveyance of the Mails; but so that nevertheless increased or diminished Services shall not be suspended, postponed, or deferred by reason of the Amount of such increased or diminished Remuneration not having then fixed or agreed on between the Postmaster General and such Company of Proprietors, or by reason of an Award on any Reference to Arbitration to determine the Amount of such increased or diminished Remuneration not having been then made.

..It shall be lawful for the Postmaster General, and he is hereby authorized, at any Time during the Continuance of the Services of any Company of Proprietors aforesaid, to give to such Company, by Writing under his Hand, Six Calendar Months previous Notice that such Services or any Part thereof shall cease and determine; and thereupon, at the Expiration of such Six Calendar Months Notice, the said Services, or such Part thereof as aforesaid, and the Remuneration for the same, shall cease and determine.

..It shall be lawful for the Postmaster General, at any Time during the Continuance of the Services of any Company of Proprietors as aforesaid, by Notice in Writing under his Hand, absolutely to determine and put an End to the same or any Part thereof, without giving any previous Notice, or on giving any Notice of less than Six Calendar Months in respect thereof, and thereupon the said Services shall cease and determine accordingly: Provided nevertheless, that in case the Postmaster General shall, without giving Six Calendar Months Notice as aforesaid, at any Time determine the Services to be required by the Postmaster General of any Company of Proprietors, or any Part of such Services, without any Cause whatever, or for any Cause other than the Default by such Company of Proprietors in the Performance of any of the Services to be required of them by the Postmaster General, or the Breach by such Company of Proprietors of any of their Engagements with the Postmaster General, then and in any

but service not to be suspended while settlement of agreement or award pending.

Post Office may terminate Mail Service of Railway Companies on Six Months Notice;

or on less than Six Months Notice, or without Notice; but with Compensation, where Company not in default.

Arbitration
in case of
dispute.

Royal Arms
to be painted
on Mail
Carriages.

which how-
ever may run
without
Arms.

Bye Laws of
Railway
Companies
not to be
repugnant
to this Act;
or else void.

such Case the Postmaster General shall make Company a full and fair Compensation for a thereby occasioned, the Amount whereof in a Parties differ about the same shall be ascertain Arbitration as herein-after mentioned*.

10....On all Carriages to be provided for the of the Post Office on any such Railway, there a the Outside be painted the Royal Arms, in lieu Name of the Owner and of the Number of the C and of all other Requisites, if any, prescribed in respect of Carriages passing on any such R but the Want of such Royal Arms on any Carri long to or used by the Post Office shall not l Objection to such Carriage running on any R anything to the contrary notwithstanding.

11....It shall not be competent or lawful to or Company of Proprietors of any Railway to ma Bye Laws, Orders, Rules, or Regulations whic militate against or be contrary or repugnant to the Enactments herein contained; and if any pany of Proprietors shall make or shall have m such Bye Laws, Orders, Rules, or Regulations prior or subsequently to the Postmaster General ing to the said Company his Intention that the Post Letter Bags, Mail Coaches, Carts, or C shall be conveyed by such Railway, all such Bye Orders, Rules, and Regulations, so far as the militate against or be contrary or repugnant to the Enactments herein contained, shall be deemed absolutely void and of no Effect, in like l as if such Bye Laws, Orders, Rules, or Regu had never been made or passed, anything to t trary in anywise notwithstanding.

* § 16-18, as to Arbitration, (p. 11-13.)

* See § 120 of the Railways Clauses Consolidation Act, 1845, as the name and residence of owner, number, weight, and gauge, of using a Railway, are to be entered with the Company whose line i them; and, if required by the Company, are to be painted on the outside of the carriage: (VIL 120.)

12....If the Company of Proprietors of any Railway, or any of their respective Officers, Servants, or Agents, shall refuse or neglect to carry or convey any Mails or Post Letter Bags, when tendered to them for such Purpose by the Postmaster General or any Officer of the Post Office, or shall refuse to carry on their Railway any Mail Coaches, Carts, or Carriages as herein-before provided, when so required by the Postmaster General, or shall refuse or neglect to receive, take up, deliver, and leave any such Mails or Post Letter Bags, Mail Guards, or other Officers of the Post Office, Mail Coaches, Carts, or Carriages, at such Places, at such Times, on such Days, and subject to such Regulations and Restrictions as to Speed of travelling, Places, Times, and Duration of Stoppages, as the Postmaster General shall from Time to Time reasonably direct or appoint, as herein-before provided, or shall not obey, observe, and perform all such Regulations respecting the Conveyance of the Mails and Post Letter Bags, Mail Coaches, Carts, and Carriages on any such Railways as the Postmaster General, or such Officer of the Post Office as he shall nominate in that Behalf, shall make for the Purposes aforesaid, then and in any such Case the Company of Proprietors who, or whose Officer, Servant, or Agent, shall so offend in the Premises, shall for every such Offence forfeit and pay a sum not exceeding Twenty Pounds; Provided nevertheless, that the Payment of or Liability to such Penalty shall not in any Manner lessen or affect the Liability of any such Company under any Bond which may have been given by them under the Provisions herein-after contained*.

Penalties on Railway Companies for non-compliance with foregoing provisions:

£20 for each offence; but penalty not to diminish liability under Bond.

13....It shall be lawful for the Postmaster General, if he shall so think fit, to require the Company of Proprietors of any Railway already made or in progress, or to be hereafter made, within the United Kingdom, to give Security by Bond to Her Majesty, Her Heirs and

Postmaster General may require Railway Companies to give Security by Bond.

Form and
amount of
Bond.

Penalty on
Company for
not giving or
renewing
Bond when
required,
£100 per
day.

Successors, conditioned to be void if such Company shall from Time to Time carry or convey or cause to be carried or conveyed, all such Mails or Post Letter Bags, Mail Guards, and other Officers of the Post Office, Mail Coaches, Carts, and Carriages in manner herein-before mentioned, when thereunto required by the Postmaster General or any Officer of the Post Office duly authorized for that Purpose, and shall receive, take up, deliver, and leave all such Mails or Post Letter Bags, Guards and Officers, Mail Coaches, Carts, and Carriages, at such Places, at such Times, on such Days, and subject to such Regulations and Restrictions as to Speed of travelling, Places, Times, and Duration of Stoppages, as herein-before mentioned, and shall obey, observe, and perform all such Regulations respecting the same as the Postmaster General shall reasonably make, and shall well and truly do and perform, and cause to be done and performed, all such other Acts, Matters, and Things as by this Act are required or directed to be done or performed by or on the Part or Behalf of such Company, their Officers, Servants, and Agents; and every such Bond shall be taken in such Sum and in such Form as the Postmaster General shall think proper; and every such Security shall be renewed from Time to Time whenever and so often as such Bond shall be forfeited, and also whenever and so often as the Postmaster General shall in his Discretion require the same to be renewed; and if any Company of Proprietors of any such Railway as aforesaid shall, when so required as aforesaid, refuse or neglect, for the Space of One Calendar Month next after the Delivery of any Notice for such Purpose to them given by or from the Postmaster General, to execute to Her Majesty, Her Heirs and Successors, such Bond to the effect and in manner aforesaid, or shall at any Time refuse or neglect to renew such Bond whenever and so often as the same shall by or in pursuance of this Act be required to be renewed, such Company of Proprietors shall forfeit

to the passing of this Act, have been demised by the Company of Proprietors thereof, the Body Corporate or Company, or other Persons to whom they shall have been so demised or let, their Successors, Executors, Administrators, or Assigns, shall, during the continuance of such Lease, be liable to all the Provisions of this Act for or in respect of such Railway or Part thereof, in lieu of such Company of Proprietors; that such Lessees (not being a Body Corporate or Company), their Executors, Administrators, or Assigns, shall not be required in respect of any such Railway or Part of a Railway to give Security under the said Act or any subsequent Enactment to any Amount in any One Bond exceeding the Sum of One Thousand Pounds, and shall not in any One Year be liable in Damages, to be recovered on any Bonds which they may have given, to any Amount exceeding the Sum of One Thousand Pounds and Costs of Suit.

All Notices under the Provisions of this Act by or on behalf of the Postmaster General to any Company of Proprietors of any Railway as aforesaid shall be deemed as duly served on any Company of Proprietors in case the same shall be given or delivered to any one or more of the Directors of such Company, or to the Secretary or Clerk of such Company, or be left

but if not a
Company or
Corporation,
not to be
required to
give security
exceeding
£1000.

Service of
Notices by
Post office
on Company.

as to remuneration or compensation.

Award final.

After Contracts have existed for 3 years, Railway Company may require reference to Arbitrators as to alteration of terms:

but service not to be interrupted.

Appointment of Arbitrators and Umpire: limitation of Time.

to such Company of Proprietors for any Service performed or to be performed by them as herein mentioned, the same shall be referred to the Arbitrators Two Persons, one to be named by the Postmaster General, and the other by such Company: and if the Two Persons cannot agree on the Amount of remuneration or Compensation, then to the Umpire or some Third Person, to be appointed by such Two named Persons previously to their entering upon the Inquiry; and the said Award or Umpirage, as it may be, shall be binding and conclusive on the Parties, and their respective Successors and Assigns.

17....After any Contract entered into or Award made under the Authority of this Act shall have continued in operation for a Period of Three Years, it shall be competent for any Railway Company who may be themselves aggrieved by the Terms of Remuneration fixed by such Contract or Award, by Notice under their Common Seal, to require that it shall be referred to Arbitrators to determine whether any and what alteration ought to be made therein; and thereupon such Arbitrators or Umpire to be appointed as herein mentioned* shall proceed to inquire into the Circumstances, and make their Award therein, as in the Terms of an original Agreement: Provided always, that the Services performed by such Railway Company for the Post Office shall in nowise be interrupted or impeded thereby.

18....In all References to be made under the Authority of this Act, the Postmaster General or the Railway Company, as the Case may be, shall nominate one of their Arbitrator within Fourteen Days after the Notice from the other Party, or in default it shall be the duty for the Arbitrator appointed by the Party giving the Notice to name the other Arbitrator; and such Arbitrators shall proceed forthwith in the Reference, and make their Award therein within Twenty-eight Days.

their Appointment, or otherwise the Matter shall be left to be determined by the Umpire; and if such Umpire shall refuse or neglect to proceed and make his Award for the Space of Twenty-eight Days after the Matter shall have been referred to him, then a new Umpire shall be appointed by the Two first-named Arbitrators, who shall in like Manner proceed and make his Award within Twenty-eight Days, or in default be superseded; and so *toties quoties*.

19....Whenever the Term "Company of Proprietors," or "Railway Company," or "Company," is used in this Act, the same shall extend to and be construed to include the Proprietors for the Time being of any Railway, whether a Body Corporate or Individuals, and also (during the Continuance of any Demise or Lease as aforesaid) any Person, whether a Body Corporate or Company or Individuals, to whom any Railway or Part of a Railway may previous^a to the passing of this Act have been demised or let, and their Successors, Executors, Administrators, and Assigns, unless the Subject or Context be otherwise repugnant to such Construction; and the Provisions of this Act shall be construed according to the respective Interpretations of the Terms and Expressions contained in an Act passed in the First Year of the Reign of Her present Majesty, intituled *An Act for consolidating the Laws relative to Offences against the Post Office of the United Kingdom, and for regulating the judicial Administration of the Post Office Laws, and for explaining certain Terms and Expressions employed in those Laws*, so far as those Interpretations are not repugnant to the Subject or inconsistent with the Context of such Provisions; and that this present Act shall be deemed and construed to be a Post Office Act within the Intent and Meaning of the said last-mentioned Act; and the pecuniary Penalties hereby imposed shall be recovered and recoverable

Interpretations:
"Company of Proprietors;"
"Railway Company;"
"Company;"
Individuals,
Lessees.

Constructions in Post Office Act.
1 Vic. c. 36.

This, a Post office Act;

Recovery of Penalties;

^a Sic : previously ?

any Justice
to have
Jurisdiction.

Service of
Summons on
Company.

Amendment
or repeal
of Act.

in the Manner and Form therein particularly mentioned and expressed with reference to the pecuniary Penalties imposed by the Post Office Acts: Provided nevertheless, that any Justice of the Peace having Jurisdiction for any County through which any Railway shall pass, in respect of which any Penalty or Forfeiture under this Act shall have been incurred, shall and may hear and determine any Offence against this Act which may subject any Company to a pecuniary Penalty not exceeding Twenty Pounds; and a Summons issued under the Post Office Acts by any such Justice against any Railway Company for the Recovery of any such Penalty, shall be deemed to be sufficiently served in case either the Summons or a Copy thereof be delivered to any Officer, Servant, or Agent of such Company, or be left at any Station belonging to such Company.

20*. And be it enacted, That this Act may be amended or repealed by any Act to be passed in the present Session of Parliament.

II.—GATES AT LEVEL CROSSINGS.

2 & 3 VICT. CAP. 45.

An Act to amend an Act of the Fifth and Sixth Years of the Reign of His late Majesty King *William* the Fourth relating to Highways. [17th August, 1839.]

WHEREAS by an Act passed in the Session of Parliament holden in the Fifth and Sixth Years of the Reign

* For the sake of brevity, this clause will be omitted from all future acts in this volume. The clause has reference only to the Session in which the act was passed, and its very temporary operation has therefore in every case terminated. Since the Session in which Lord Brougham's Act of 1850 (13 Vic. c. 21,) "for shortening the Language used in Acts of Parliament" was passed, the clause has been disused in the statutes themselves. That Act declared, in § 1, "that every Act to be passed after the Commencement of this Act," (i.e., on "the Commencement of the next Session of Parliament," § 8,) "may be altered, amended, or repealed in the same Session of Parliament, any Law or Usage to the contrary notwithstanding."

not maintain good and sufficient Gates at all Level Crossings, and shall employ good and proper persons to attend to the opening and shutting of such Gates, so that the Persons, Carts, or Carriages passing such Road shall not be exposed to any Danger or Injury by the passing of any Carriages or Engines of the said Railroad, and any Complaint for any Neglect in respect of the said Gates shall be made within one Month after the said Neglect to One Justice, who shall summon the Party so complained against to appear before the Justices at their next Special Sessions for the County, who shall hear and decide upon the said Complaint, and the Proprietor so offending shall forfeit a Sum not exceeding Five Pounds: And whereas it is enacted by the said Act further enacted^c, that nothing in the said Act contained shall apply to any Turnpike Roads, or to any Roads, where expressly mentioned, or to any Roads, or Carriageways, Cartways, Horseways, Bridle-Footways, Causeways, Churchyards, or Pavements, which now are or may hereafter be paved, or cleansed, broken up or diverted, under or in pursuance of the Provisions of any Local or Personal Acts of Parliament: And whereas it is deemed expedient to amend the said Provisions in the said Act, *Penalty for neglect.*
to extend the same to Turnpike Roads in England.

Gates where
Railroad
crosses High-
way, &c.:

and employ
persons to
open and
shut same.

Penalty, £5
for each
Day's Neg-
lect.

Recovery
and applica-
tion of
Penalties.

Commence-
ment of Act.

any Highway or Statute Labour Road for Carts or Carriages in *Great Britain*, the Proprietors or Directors of the Company of Proprietors of the said Railroad shall make and maintain good and sufficient Gates across the End of such Turnpike or other Road as aforesaid, and shall employ good and proper Persons to open and shut such Gates, so that no Persons, Carts, or Carriages passing along such Turnpike^a or Highway shall not be exposed to any Danger or Damage by the passing of any Carriages or Engines along the said Railroad^b; and any Complaint for Neglect in respect of the said Gates shall be made within One Calendar Month after the said Neglect, to any Justice of the Peace, (or if in *Scotland*, to the Sheriff of the County,) who may summon the Party so complained against to appear before them or him at the next Petty Session or Court to be holden for the District or Division within which such Gates are situated, who shall hear and decide upon the said Complaint; and the Proprietor or Director so offending shall, for each and every Day of such Neglect, forfeit any Sum not exceeding Five Pounds, together with such Costs as the Justices or Sheriff Depute aforesaid before whom the Conviction shall take place shall seem fit.

2....The Penalties by this Act imposed, and the Costs to be allowed and ordered by the Authority of this Act shall in *England* be recovered and applied in the same Manner as any Penalties and Costs under the said Act, and in *Scotland* shall be recovered and applied to the Maintenance of the Statute Labour Roads within the District where the Offence is committed.

3....This Act shall commence and take effect from and after the Thirtieth Day of *September* One thousand eight hundred and thirty-nine.

^a Sic : Turnpike Road?

^b See further in § 9 of 5 & 6 Vic. c. 55, (IV. 9); and § 47 of 8 Vic. c. 71, (VII. 47).

^c Highways Act for England, 5 & 6 Wm. 4, c. 50.

III.—RAILWAYS REGULATION ACT, 1840.

3 & 4 VICT. CAP. 97.

An Act for regulating Railways.

[10th August, 1840.]

WHEREAS it is expedient for the Safety of the Public to provide for the due Supervision of Railways: Be it therefore enacted^a....That after Two Months from the passing of this Act, no Railway, or Portion of any Railway, shall be opened for the public Conveyance of Passengers or Goods until One Calendar Month after Notice in Writing of the Intention of opening the same shall have been given, by the Company to whom such Railway shall belong, to the Lords of the Committee of Her Majesty's Privy Council appointed for Trade and Foreign Plantations^b.

Month's Notice before opening a Railway, to be given to Board of Trade.

2....If any Railway, or Portion of any Railway, shall be opened without due Notice as aforesaid, the Company to whom such Railway shall belong shall forfeit to Her Majesty the Sum of Twenty Pounds for every day during which the same shall continue open, until the Expiration of One Calendar Month after the Company shall have given the like Notice as is herein-before required before the opening of the Railway; and any such Penalty may be recovered in any of Her Majesty's Courts of Record^b.

Penalty for opening Railways without such Notice, £20 a day.

3....The Lords of the said Committee may order and direct every Railway Company to make up and deliver to them Returns, according to the Form to be provided by the Lords of the said Committee,—of the aggregate Traffic in Passengers, according to the several Classes, and of the aggregate Traffic in Cattle and Goods respectively, on the said Railway,—as well as of

Returns required by Board of Trade, to be made by Railway Companies: of Traffic;

^a See note ^a in p. 1.

Sections 1 & 2 of this act are repealed by § 3 of 5 & 6 Vic. c. 55; and other Revision is made in lieu thereof, by § 4 *et seq.* of the latter act: (IV. 3-6).

of Accidents; all Accidents which shall have occurred thereon attended
of Fares, &c. with personal Injury^a,—and also a Table of all Tolls,
 Rates, and Charges from Time to Time levied on each
 Class Passengers^b, and on Cattle and Goods, conveyed
 on the said Railway; and if the Returns herein specified
 shall not be delivered within Thirty Days after the
 same shall have been required, every such Company
 shall forfeit to Her Majesty the Sum of Twenty
 Pounds for every Day during which the said Company
 shall wilfully neglect to deliver the same; and every
 such Penalty may be recovered in any of Her Majesty's
 Courts of Record: Provided always, that such Returns
 shall be required, in like Manner and at the same Time,
 from all the said Companies, unless the Lords of the
 said Committee shall specially exempt any of the said
 Companies, and shall enter the Grounds of such Exemp-
 tion in the Minutes of their Proceedings.

**Penalty for
non-delivery
of Returns,
£20 a day.**

**Proviso;
Returns from
Companies
generally.**

**False Re-
turns, Misd-
emeanor.**

**Inspection of
Railways,
Works, &c.,
by authority
of Board of
Trade:**

**Inspectors
not to be
Directors for
a year pre-
vious.**

**Obstructing
Inspector;**

4....Every Officer of any Company who shall wilfully make any false Return to the Lords of the said Committee shall be deemed guilty of a Misdemeanor.

5....It shall be lawful for the Lords of the said Committee, if and when they shall think fit, to authorize any proper Person or Persons to inspect any Railway: and it shall be lawful for every Person so authorized, at all reasonable Times, upon producing his Authority, if required, to enter upon and examine the said Railway, and the Stations, Works and Buildings, and the Engines and Carriages belonging thereto: ~~Provided always, that no Person shall be eligible to the Appointment as Inspector as aforesaid who shall within One Year of his Appointment have been a Director or have held any Office of Trust or Profit under any Railway Company.~~

6....Every Person wilfully obstructing any Person duly authorized as aforesaid, in the Execution of his

^a See further, in sections 7, 8 of 5 & 6 Vic. c. 55, as to returns of Accidents (IV. 7, 8).

^b "Class Passengers;" sic: Class of Passengers?

^c The powers given by this section are extended, and the proviso in the latter part of it is repealed, by § 15 of 7 & 8 Vic. c. 85, (V. 15).

shall, on Conviction before a Justice of the Peace having Jurisdiction in the Place where the Offence shall have been committed, forfeit and pay for every such Offence any Sum not exceeding Ten Pounds; and on default of Payment of any Penalty so adjudged, immediately or within such Time as the said Justice of the Peace shall appoint, the same Justice, or any other Justice having Jurisdiction in the Place where the Offender shall be or reside, may commit the Offender to Prison for any Period not exceeding Three Calendar Months; such Commitment to be determined on Payment of the Amount of the Penalty; and every such Penalty shall be returned to the next ensuing Court of Quarter Sessions in the usual Manner. Penalty, £10.

And whereas many Railway Companies are or may hereafter be empowered by Act of Parliament to make Bye Laws, Orders, Rules, or Regulations, and to impose Penalties for the Enforcement thereof, upon Persons other than the Servants of the said Companies, and it is expedient that such Powers should be under proper Control; be it enacted, That true Copies of all such Bye Laws, Orders, Rules, and Regulations made under such Powers by every such Company before the passing of this Act, certified in such Manner as the Members of the said Committee shall from Time to Time direct, shall, within Two Calendar Months after the passing of this Act, be laid before the Lords of the said Committee; and that every such Bye Law, Order, Rule, Regulation, not so laid before the Lords of the said Committee within the aforesaid Period, shall, from and after that Period, cease to have any Force or Effect, in so far as any Penalty may have been then or may be incurred under the same. Bye Laws, &c. : existing Bye Laws to be laid before Board of Trade, within Two months; otherwise to be void.

And no such Bye Law, Order, Rule, or Regulation made or made under any such Power, and which shall not be in force at the Time of the passing of this Act, and no Order, Rule, or Regulation annulling any such existing Bye Law, Order, or Regulation which shall be made after the passing of this Act, shall have any Force or Effect, in so far as any Penalty may have been then or may be incurred under the same, until Two Months after being laid before Board of Trade; Future Bye Laws not to take effect till Two Months after being laid before Board of Trade;

unless sooner
approved.

Bye Laws
may be disal-
lowed by
Board of
Trade, at any
time, and
thereupon to
be of no
effect.

Repeal of
Provisions of
previous
Railway
Acts as to
approval of
Bye Laws
by others
than Board
of Trade.

Non-com-
pliance with

the passing of this Act, shall have any Force or Effect until Two Calendar Months after a true Copy of the Bye Law, Order, Rule, or Regulation, certified as a true Copy, shall have been laid before the Lords of the Committee, unless the Lords of the said Committee, before such Period, signify their Approbation thereof.

9....It shall be lawful for the Lords of the said Committee, at any Time either before or after any Bye Law, Order, Rule, or Regulation shall have been laid before them as aforesaid shall have come into operation, to notify to the Company who shall have made the same their Disallowance thereof, and, in case the same shall be in force at the Time of such Disallowance, then the same shall cease to be in force; and any Bye Law, Order, Rule, or Regulation which shall be disallowed shall have any Force or Effect whatsoever, or, if it shall be in force at the Time of such Disallowance, it shall cease to have any Force or Effect at the Time limited in the Notice of such Disallowance, and in so far as any Penalty may have been then actually incurred under the same^b.

10....So much of every Clause, Provision, and Enactment in any Act of Parliament heretofore passed may require the Approval or Concurrence of any Justice of the Peace, Court of Quarter Sessions, or any Person or Persons, other than Members of the said Companies, to give Validity to any Bye Laws, Orders, Rules, or Regulations made by any such Company, shall be repealed^c.

11^d....Whenever it shall appear to the Lords of

^a Sic: "regulation which shall have been laid before them as aforesaid shall have come into operation"?

^b See as to Bye Laws, in Companies Clauses Consolidation Act, § 134 (VI. 124, &c.); and in Railways Clauses Consolidation Act, § 104 (VII. 108, &c.)

^c Under the previous sections, 7-9, the approval of the Board of Trade for Bye Laws is required, instead of that of other authorities previously mentioned in special acts.

^d This section (11) is repealed by § 16 of 7 & 8 Vic. c. 85, and the provision made by § 17 of the latter act (V. 16, 17).

said Committee that any of the Provisions of the several Acts of Parliament regulating any of the said Companies, or the Provisions of this Act, have not been complied with on the Part of any of the said Companies or any of their Officers, and that it would be for the public Advantage that the due Performance of the same should be enforced, the Lords of the said Committee shall certify the same to Her Majesty's Attorney General for England or Ireland, or to the Lord Advocate for Scotland, as the Case may require; and thereupon the said Attorney General or Lord Advocate shall, by Information, or by Action, Bill, Plaint, Suit at Law or in Equity, or other legal Proceeding, as the Case may require, proceed to recover such Penalties and Forfeitures, or otherwise to enforce the due Performance of the said Provisions, by such Means as any Person aggrieved by such Non-compliance, or otherwise authorized to sue for such Penalties, might employ under the Provisions of the said Acts: Provided always, that no such Certificate as aforesaid shall be given by the Lords of the said Committee until Twenty-one Days after they shall have given Notice of their Intention to give the same to the Company against or in relation to whom they shall intend to give the same.

Provisions of Railway Acts, may be certified by Board of Trade;

and Attorney General, &c., thereupon to enforce Performance and Penalties:

Notice to be given to the Company, 21 days before issue of certificate.

12....No legal Proceedings shall be commenced under the Authority of the Lords of the said Committee against any Railway Company for any Offence against this Act, or any of the several Acts of Parliament relating to Railways, except upon such Certificate of the Lords of the said Committee as aforesaid, and within One Year after such Offence shall have been committed*.

Limitation of Prosecutions under Authority of Board of Trade.

13....It shall be lawful for any Officer or Agent of any Railway Company, or for any Special Constable duly appointed, and all such Persons as they may call to their Assistance, to seize and detain any Engine Driver, Guard, Porter, or other Servant in the Employ of such

Servants of Railway Companies: Punishment for Misconduct:

* This section (12) is superseded by § 18 of 7 & 8 Vic. c. 85 (V. 18).

Summary
procedure:

Penalties,
where de-
cided by
Justice.

Company* who shall be found drunk while employed upon the Railway, or commit any Offence against any of the Bye Laws, Rules, or Regulations of such Company, or shall wilfully, maliciously, or negligently omit to do any Act, whereby the Life or Limb of any Person passing along or being upon the Railway, or being engaged in such Company, or the Works thereof respectively shall be or might be injured or endangered, or which shall obstruct the Passage of any of the Engines, Carriages, or Trains, or shall be or might be obstructed or impeded; and to obstruct or hinder any such Engine Driver, Guard, Porter, or other Servant of such Company so offending, or any Person counselling, aiding, or abetting in such Offence, with all convenient Despatch, to be taken before some Justice of the Peace for the Place where such Offence shall be committed, without any other Warrant or Authority than this Act; and every such Person so offending, and every Person counselling, aiding, or assisting therein as aforesaid, shall, when convicted before such Justice as aforesaid, (who is hereby authorized and required, upon Complaint to him made upon Oath, without Information in Writing, to take cognizance thereof, and to act summarily* in the premises), in the Discretion of such Justice, be imprisoned with or without hard Labour, for any Term not exceeding Two Calendar Months, or, in the like Discretion of such Justice, shall for every such Offence forfeit to His Majesty any Sum not exceeding Ten Pounds, and in default of Payment thereof shall be imprisoned, without hard Labour as aforesaid, for such Period not exceeding Two Calendar Months, as such Justice

14. Provided always, and be it enacted, That (if upon the Hearing of any such Complaint he shall think fit) it shall be lawful for such Justice, instead of deciding upon the Matter of Complaint summarily^a, to commit the Person or Persons charged with such Offence, for Trial for the same at the Quarter Sessions for the County or Place wherein such Offence shall have been committed, and to order that any such Person so committed shall be imprisoned and detained in any of Her Majesty's Gaols or Houses of Correction in the said County or Place in the meantime, or to take Bail for his Appearance, with or without Sureties, in his Discretion; and every such Person so offending, and convicted before such Court of Quarter Sessions as aforesaid (which said Court is hereby required to take cognizance of and hear and determine such Complaint), shall be liable, in the Discretion of such Court, to be imprisoned, with or without hard Labour, for any Term not exceeding Two Years.

Or Justice may commit offender for trial at Quarter Sessions.

Penalty by Quarter Sessions.

15....From and after the passing of this Act every Person who shall wilfully do or cause to be done any thing in such Manner as to obstruct any Engine or Carriage using any Railway, or to endanger the Safety of Persons conveyed in or upon the same, or shall aid or assist therein, shall be guilty of a Misdemeanor, and being convicted thereof shall be liable, at the Discretion of the Court before which he shall have been convicted, to be imprisoned, with or without hard Labour, for any Term not exceeding Two Years.

Obstructing Engines or Carriages, or endangering Passengers, &c., a Misdemeanor.

16....If any Person shall wilfully obstruct or impede any Officer or Agent of any Railway Company in the Execution of his Duty upon any Railway, or upon or in any of the Stations or other Works or Premises connected therewith,—or if any Person shall wilfully trespass upon any Railway, or any of the Stations or other Works or Premises connected therewith, and shall re-

Obstructing Officers of Railway Company, or trespassing upon Railway or Premises:

^a Under § 13.

summary
procedure ;

Penalties.

Proceedings
not void for
informality,
nor remov-
able into
Superior
Courts.

Branches and
openings in
Ledges or
Flanches of
Railways :
Repeal of
provisions in
Special Acts
empowering
Justices to
decide Dis-
putes as to
proper Places
for such
openings.

fuse to quit the same upon Request to him made by any Officer or Agent of the said Company,—every such Person so offending, and all others aiding or assisting therein, shall and may be seized and detained by any such Officer or Agent, or any Person whom he may call to his Assistance, until such Offender or Offenders can be conveniently taken before some Justice of the Peace for the County or Place wherein such Offence shall be committed, and when convicted before such Justice as aforesaid (who is hereby authorized and required, upon Complaint to him upon Oath, to take cognizance thereof, and to act summarily in the Premises,) shall, in the Discretion of such Justice, forfeit to Her Majesty any Sum not exceeding Five Pounds, and in default of Payment thereof shall or may be imprisoned for any Term not exceeding Two Calendar Months, such Imprisonment to be determined on Payment of the Amount of the Penalty.

17....No Proceeding to be had and taken in pursuance of this Act shall be quashed or vacated for Want of Form, or be removed, by Certiorari or by any other Writ or Process whatsoever, into any of Her Majesty's Courts of Record at *Westminster* or elsewhere, any Law or Statute to the contrary notwithstanding.

18. And whereas many Railway Companies are bound, by the Provisions of the Acts of Parliament by which they are incorporated or regulated, to make, at the Expense of the Owner or Occupier of Lands adjoining the Railway, Openings in the Ledges or Flanches thereof, (except at certain Places on such Railway in the said Acts specified), for effecting Communications between such Railway and any Collateral or Branch Railway to be laid down over such Lands, and any Disagreement or Difference which shall arise as to the proper Places for making any such Openings in the Ledges or Flanches is by such Acts directed to be referred to the Decision of any two Justices of the Peace within their respective Jurisdictions: And whereas

it is expedient that so much of every Clause, Provision, and Enactment in any Act of Parliament heretofore passed, as gives to any Justice or Justices the Power of hearing or deciding upon any such Disagreement or Difference as to the proper Places for any such Openings in the Ledges or Flanches of any Railway, should be repealed; be it therefore enacted, That so much of every such Clause, Provision, and Enactment as aforesaid shall be repealed.

19....In case any Disagreement or Difference shall arise between any such Owner or Occupier, or other Persons, and any Railway Company, as to the proper Places for any such Openings in the Ledges or Flanches of any Railway (except at such Places as aforesaid), for the Purpose of such Communication, then the same shall be left to the Decision of the Lords of the said Committee, who are hereby empowered to hear and determine the same in such Way as they shall think fit; and their Determination shall be binding on all Parties.

Board of Trade to determine such Disputes in future;

and their decision binding.

20....All Notices, Returns, and other Documents required by this Act to be given to or laid before the Lords of the said Committee, shall be delivered at or sent by the Post to the Office of the Lords of the said Committee; and all Notices, Appointments, Requisitions, Certificates, or other Documents in Writing, signed by one of the Secretaries of the said Committee, or by some Officer appointed for that Purpose by the Lords of the said Committee, and purporting to be made by the Lords of the said Committee, shall, for the Purposes of this Act, be deemed to have been made by the Lords of the said Committee^a; and Service of the same upon any One or more of the Directors of any Railway Company, or on the Secretary or Clerk of the said Company, or by leaving the same with the Clerk or Officer at one of the Stations belonging to the said Company, shall be deemed good Service upon the said Company.

Notices, &c., to Board of Trade may be delivered or sent by post.

Documents of Board of Trade under Signature of their Officers.

Service of Notice, &c., on Railway Company.

^a See further, in § 12 of 5 & 6 Vic. c. 55 (IV. 12).

^b See subsequent provision in act of 1851; § 3 of 14 & 15 Vic. c. 64, (XIII. 3.).

Interpre- 21....Wherever the Word "Railway" is used in
tion: Act, it shall be construed to extend to all Railways
"Railway;" constructed under the Powers of any Act of Parlia-
 ment and intended for the Conveyance of Passengers
 upon Carriages drawn or impelled by the Power
 of Steam or by any other mechanical Power; and
"Company;" ever the Word "Company" is used in this Act, it
 shall be construed to extend to and include the Proprietors
 for the Time being of any such Railway, whether
 a Body Corporate or Individuals, and their Lessees,
Individuals; Executors, Administrators, and Assigns, unless the Subject
Lessors. or Context be repugnant to such Construction.

IV.—RAILWAYS REGULATION ACT, 1842

5 & 6 VICT. CAP. 55.

An Act for the better Regulation of Railways, and
 the Conveyance of Troops.

[30th July, 1842]

3 & 4 Vict.
c. 97.

Commence-
ment of Act.

Recited Act
and this to
be construed
together.

Notice to
Board of
Trade before

WHEREAS by an Act passed in the Third and Fourth Years of the Reign of Her present Majesty, intituled *An Act for regulating Railways*^a, Provision was made for the Supervision of Railways: And whereas it is expedient for the Safety of the Public to make further Provision for that Purpose: Be it enacted^b....That this Act shall come into Operation on the passing thereof.

2....The Provisions of the said recited Act and this Act shall be construed together as One Act, except so far as the Provisions of the said recited Act are hereby repealed, or shall be inconsistent with the Provisions of this Act.

3. And whereas by the said recited Act it is enacted that after Two Months from the passing of the

^a 3 & 4 Vic. c. 97; (p. 17).

^b See note ^c in p. 1.

^c § 1 of 3 & 4 Vic. c. 97; (III. 1, p. 17).

recited Act, no Railway, or Portion of any Railway, shall be open for the public Conveyance of Passengers or Goods, until One Calendar Month after Notice in Writing of the Intention of opening the same shall have been given, by the Company to whom such Railway shall belong, to the Lords of the Committee of Her Majesty's Privy Council appointed for Trade and Foreign Plantations: And whereas by the said recited Act it is also enacted^a, that if any Railway or Portion of any Railway shall be opened without due Notice as aforesaid, the Company to whom such Railway shall belong shall forfeit to Her Majesty the Sum of Twenty Pounds for every Day during which the same shall continue open, until the Expiration of One Calendar Month after the Company shall have given the like Notice as is herein-before^b required before the opening of the Railway, and any such Penalty may be recovered in any of Her Majesty's Courts of Record: Be it enacted, That the said recited Provisions of the said Act shall be and they are hereby repealed.

opening of a
Railway:
repeal of pro-
visions of
previous act.

4....No Railway or Portion of any Railway shall be opened for the public Conveyance of Passengers until One Calendar Month after Notice in Writing of the Intention of opening the same shall have been given, by the Company to whom such Railway shall belong, to the Lords of the Committee of Her Majesty's Privy Council appointed for Trade and Foreign Plantations, and until Ten Days after Notice in Writing shall have been given by the said Company to the Lords of the said Committee of the Time when the said Railway or Portion of Railway will be, in their Opinion, sufficiently completed for the safe Conveyance of Passengers, and ready for Inspection.

Notices to
Board of
Trade before
opening of
Railway;
One Month's
notice of in-
tention to
open;

Ten Days'
notice of
completion
for inspec-
tion, &c.

5....If any Railway or Portion of any Railway shall be opened without such Notice^c as aforesaid, the Com-

Penalty for
opening Rail-
way without
Notice, £20
per day.

^a § 2 of 3 & 4 Vic. c. 97; (III. 2, p. 17). ^b "Hereinbefore": i.e. in previous act.

^c "Notice;" sic: see § 4, requiring two notices, one of a month, one of ten days, before opening.

Board of
Trade may
postpone the
opening, on
report of
Inspector on
grounds spe-
cified;

for One
Month at a
time:

Penalty for
opening con-
trary to order
of Board of
Trade, £20
a day:

in any of Her Majesty's Courts of Record, or in the Court of Session or in any of the Sheriffs Courts in Scotland.

6....If the Officer or Officers appointed by the said Committee to inspect any such Railway or any Portion of Railway shall, after Inspection thereof, make a report in Writing to the Lords of the said Committee, that, in his or their Opinion, the opening of the said Railway would be attended with Danger to the Public use of the same, by reason of the Incompleteness of the Works or permanent Way, or the Insufficiency of the Establishment for working such Railway, together with the Grounds of such Opinion, it shall be lawful for the Lords of the said Committee, and so from Time to Time, as often as such Officers shall after further Inspection thereof so report, to order and direct the Company to whom such Railway shall belong, to postpone such opening for any Period not exceeding one Calendar Month at any one Time, until it shall appear to the Lords of the said Committee that such opening may take place without Danger to the Public; and if any such Railway, or any Portion thereof, shall be opened contrary to any such Order and Direction of the Lords of the said Committee, the Company to whom such Railway shall belong shall forfeit to Her Majesty the Sum of Twenty Pounds for every Day during which

ess therewith shall be delivered to the said Company
copy of the Report of the Officer or Officers on which
an Order shall be founded.

....Every Railway Company shall within Forty-eight
hours after the Occurrence upon the Railway belong-
ing to such Company of any Accident attended with
serious personal Injury to the Public using the same,
give Notice thereof to the Lords of the said Committee;
and if any Company shall wilfully omit to give such
Notice every such Company shall forfeit to Her Majesty
the Sum of Five Pounds for every Day during which
such Omission to give the same shall continue; and every
such Penalty may be recovered in any of Her Majesty's
Courts of Record, or in the Court of Session or in any
of the Sheriffs Courts in *Scotland*.

Serious
Accidents to
be reported
to Board of
Trade, within
48 hours;
under
Penalty for
neglect.

....The Lords of the said Committee may order and
direct any Railway Company to make up and deliver to
them Returns of serious Accidents occurring in the
course of the public Traffic upon the Railway belonging
to such Company, whether attended with personal
Injury or not, in such Form and Manner as the Lords
of the said Committee shall deem necessary and require
their Information with a view to the public Safety;
and if any such Returns shall not be so delivered within
fourteen Days after the same shall have been required,
every such Company shall forfeit to Her Majesty the
Sum of Five Pounds for every Day during which the
said Company shall neglect to deliver the same; and
every such Penalty may be recovered in any of Her
Majesty's Courts of Record, or in the Courts of Session
or in any of the Sheriffs Courts in *Scotland*: Provided
always, that all such Returns shall be privileged Com-
munications, and shall not be Evidence in any Court
whatsoever.

Board of
Trade may
require Re-
turns of
accidents, in
Form to be
prescribed by
them:

Penalty for
omission.

Returns of
accidents
privileged,
and not evi-
dence.

. And whereas by an Act passed in the Second and
Third Years of Her present Majesty, and intituled *An
Act to amend an Act of the Fifth and Sixth Years of
late Majesty King William the Fourth relating to*

Gates at
level Cross-
ings over
public roads;
provisions of
Highways
Act:

Highways, it was enacted,* that whenever a Railway crosses or shall hereafter cross any Turnpike Road, or any other Highway or Statute Labour Road for Carts or Carriages in *Great Britain*, the Proprietors or Directors of the said Railway shall make and maintain good and sufficient Gates across each End of such Turnpike or other Road at each End of the said Crossings, and shall employ good and proper Persons to open and shut such Gates, so that the Persons, Carts, or Carriages passing along such Turnpike or other Road shall not be exposed to any Danger or Damage by the passing of any Carriages or Engines along the said Railway: And whereas by the Acts relating to certain Railways it is provided that such Gates shall be kept constantly closed across the Railway, except during the Time when Carriages or Engines passing along the Railway shall have to cross such Turnpike or other Road: And whereas Experience has shown that it is more conducive to Safety that such Gates should be kept closed across the Turnpike or other Road instead of across the Railway: Be it therefore enacted, That, notwithstanding anything to the contrary contained in any Act of Parliament heretofore passed, such Gates shall be kept constantly closed across each End of such Turnpike or other Roads, in lieu of across the Railway, except during the Time when Horses, Cattle, Carts, or Carriages passing along such Turnpike or other Road shall have to cross such Railway; and such Gates shall be of such Dimensions and so constructed as, when closed across the Ends of such Turnpike or other Roads, to fence in the Railway, and prevent Cattle or Horses passing along the Road from entering upon the Railway while the Gates are closed: Provided always, that it shall be lawful for the Lords of the said Committee, in any Case in which they are satisfied that it will be more conducive for^b the public Safety that the Gates at any level Crossing over any

Provisions of
special Acts.

Gates at level
Crossings
over public
roads, to be
kept closed
across such
roads, and
not across
the railway.

Proviso;
Board of
Trade may
order gates
to be closed
across Rail-
way.

* 2 & 3 Vic. c. 45, § 1 (II. 1, p. 15, 16).

^b Sic: to?

ke or other Road should be kept closed
ilway, to order and direct that such Gates
so closed, instead of across the Road; and
f the Lords of the said Committee shall be
uthority for the Directors or Proprietors of
Company to whom such Order is addressed
uch Gates closed, in the Manner directed
of the said Committee.*

hereas it is expedient that further Provi- Fences to be
erected and
maintained
by Railway
Companies
over the
whole of
their lines.
for the Safety of the Public in respect of
Railways: Be it enacted, That all Rail-
es shall be under the same Liability of
erect, and to maintain and repair, good
Fences throughout the whole of their
es, as they would have been if every Part
s had been originally ordered to be made
er of Justices by virtue of the Provisions
in the Acts of Parliament relating to such
ectively.^b

Two or more Railway Companies whose Common
Terminus or
Line of Rails
for different
Companies:
e a common Terminus or a Portion of the
Rails in common, or which form separate
ne continued Line of Railway Communi-
ot be able to agree upon Arrangements
g at such common Terminus, or at the
tion between them, their joint Traffic with Board of
Trade may
decide dis-
putes as
working
Joint Traffic
in such cases,
on applica-
tion of one
of the parties:
Public, it shall be lawful for the Lords of
nittee, upon the Application of either of
decide the Questions in dispute between
as the same relate to the Safety of the
order and determine whether the whole
ortion of the Expenses attending on such
shall be borne by either of the Parties
and if any Railway Company shall refuse

n as to closing of Gates at Level Crossings, in the Rail-
idation Act, 1845; 8 Vic. c. 20, § 47 (VII. 47).
ial Acts. Further provisions as to Fences in subsequent
Railway Clauses Consolidation Act, (VII. 50, 61-2, 65, 68).

Order of
Board of
Trade bind-
ing, under
Penalties,
£20 a day.

Powers of
making pri-
vate Branch
Communica-
tion with or
across Rail-
ways, and of
running car-
riages, &c.,
thereon, to
be subject to
regulation by
Board of
Trade.

Proviso;
what to be
considered a
Passenger
Railway.

or wilfully neglect to obey any such Order made upon or against such Company by the Lords of the said Committee pursuant to this Provision, such Company shall forfeit to Her Majesty the Sum of Twenty Pounds *per* Day for every Day during which such Refusal or Neglect shall continue; and every such Penalty may be recovered in any of Her Majesty's Courts of Record, or in the Court of Session or in any of the Sheriffs Courts in *Scotland*.

12. And whereas Powers of laying down Branch Lines opening into the Ledges or Flanches of Main Lines of Railway^a, and of entering upon and passing along such Main Lines with Carriages and Waggon drawn by Locomotive Engines, or by other mechanical or animal Power, and also Powers to form Roads or Railways across existing Railways on a Level, have been given by various Acts relative to Railways to the Owners or Occupiers of Lands adjoining the Railway, and to other Persons with their Consent: And whereas Experience has shown that the Exercise of such Powers without Limitation would in many Cases be attended with Danger to the Public using such Railway: Be it therefore enacted, That if, in the Case of any Railway on which Passengers are conveyed by Steam or other mechanical Power, it shall appear to the Lords of the said Committee that such Power as aforesaid cannot be so exercised without seriously endangering the public Safety, and that an Arrangement may be made with a due Regard to existing Rights of Property, it shall be lawful for the Lords of the said Committee to order and direct that such Powers shall only be exercised subject to such Conditions as the Lords of the said Committee shall direct: Provided always, that no Railway shall be considered a Passenger Railway if Two Thirds or more of the gross annual Revenue of such Railway shall be derived from the Carriage thereon of Coals, Ironstone, or other Metals or Minerals^b.

^a And see § 18, 19 of 3 & 4 Vic. c. 97 (III. 18, 19).

^b See further as to private branch Railways, in § 76 of Railways Clauses Consolidation Act, 8 Vic. c. 20 (VII. 76).

13. And whereas in many Cases, Railways have been made to cross Turnpike Roads, Highways, and private Roads and Tramways on the Level, and the Companies to whom such Railways belong would in some Cases be willing, at their own Expense, to carry such Roads and Tramways over or under such Railways by means of a Bridge or Archway for the greater Safety of the Public, but have no Authority so to do: And whereas it would promote the public Safety if Railway Companies were enabled, under the Sanction and Authority of the Lords of the said Committee, to substitute Bridges or Archways for such level Crossings as aforesaid: Be it therefore enacted, That in all Cases where any Railway Company shall be willing, at their own Expense, to carry any Turnpike Road, Highway, or private Road or Tramway over or under their Railway by means of a Bridge or Arch, in lieu of crossing the same on the Level, it shall be lawful for the Lords of the said Committee, on the Application of the said Company, and after hearing the several Parties interested, if it shall appear to the Lords of the said Committee that such level Crossing endangers the public Safety, and that the Proposal of the Company does not involve any Violation of existing Rights or Interests without adequate Compensation, to give the said Company full Power and Authority for removing the Danger, at their own Expense, either by building a Bridge or by such other Arrangement as the Nature of the Case shall require, subject to such Conditions as the Lords of the said Committee shall direct.

Level Crossings:

Board of Trade may authorize substitution of Bridges, &c., for dangerous level crossings.

14. And whereas it is essential for the public Safety, and also for the proper Maintenance of Railways in a State of Efficiency for the public Service, that Railway Companies should have the Power, in case of Accidents or Slips happening or being apprehended to their Cuttings and Embankments or other Works, to enter upon the Lands adjoining their respective Railways, for the Purpose of repairing or renewing the same, and to do such Works as may be necessary for the Purpose: Be

In case of accident or slips in cuttings, &c., Board of Trade may empower Railway Companies to enter upon adjoining Lands to repair same.

cases of un-
usual neces-
sity.

Works to be
as little in-
jurious as
possible to
adjoining
lands, and
Compensa-
tion to be
made:

and land not
to be taken

case of Necessity it shall be lawful for any Railw
pany to enter upon such Lands and do such
as aforesaid, without having obtained the
Sanction of the Lords of the said Committee;
every such Case such Railway Company shall
Forty-eight Hours after such Entry, make a Re
the Lords of the said Committee, specifying the
of such Accident or apprehended Accident, and
Works necessary to be done; and such Power
cease and determine if the Lords of the said Com
shall, after considering the said Report, certify that
Exercise is not necessary for the public Safety: Pro
also, that such Works shall be as little injurious
said adjoining Lands as the Nature of the Accid
apprehended Accident will admit of, and shall be
executed with all possible Despatch; and full Comp
tion shall be made to the Owners and Occupiers o
Lands for the Loss or Injury or Inconvenience sust
by them respectively by reason of such Work
Amount of which Compensation, in case of any D
about the same, shall be settled in the same Man
Cases of disputed Compensation are directed
settled by the Acts relating to the Railway on
such Works may become necessary: Provided a
that no Land shall be taken permanently hereon R

purchasing and taking Lands for the Construction of such Railways, and it is provided that such compulsory Powers shall not be exercised after the Expiration of certain limited Periods from the passing of the said Acts: And whereas it is sometimes found necessary for the public Safety, that additional Land should be taken after the Expiration of such Periods, for the Purpose of giving increased Width to the Embankments and Inclination to the Slopes of Railways, or for making Approaches to Bridges or Archways, or for doing such Works for the Repair or Prevention of Accidents as are herein-before described*: Be it therefore enacted, That in every Case in which the Lords of the said Committee shall certify that the public Safety requires additional Land to be taken by any Railway Company for such Purposes as aforesaid, the compulsory Powers of purchasing and taking Land contained in the Act or Acts of such Railway Company, together with all the Clauses and Provisions relative thereto, shall, as regards such Portion or Portions of Land as are mentioned in the Certificate of the Lords of the said Committee, revive and be in full Force for such further Period as shall be mentioned in such Certificate: Provided always, that any Railway Company applying to the Lords of the said Committee for any such Certificate shall give Fourteen Days Notice in Writing, in the Manner prescribed by the Act or Acts of such Company for serving Notices on Landowners, of their Intention to make such Application to all the Parties interested in such Lands, or such of them as shall be known to the Company, and shall state in such Notice the Particulars of the Lands required; and if any of such Parties interested shall apply within the said Period of Fourteen Days to the Lords of the said Committee, such Party shall be heard by them before any such Certificate is given: Provided also, that where any such Application shall have been made by any Railway Company to the Lords of the

taking Land for Railway Purposes may be exercised after time limited, where necessary for Safety, under Certificate of Board of Trade.

Notice of application for Certificate, to be given by the Company to parties interested in the lands;

who are to be heard by Board of Trade;

Costs where application for Certificate refused by Board of Trade.

said Committee, upon which Application any such Certificate shall have been refused, the Directors of such Railway Company shall, if required by the Lords of the said Committee, repay to the Party resisting such Application any Expenses which he or they may have incurred in resisting such Application.

Carriages of
greater
Weight than
Four Tons
may be used
on Railways:

16. And whereas by various Acts relating to Railways it is enacted, that no Carriage or Waggon shall carry or bear at any One Time upon the Railway (including the Weight of such Carriage) more than Four Tons; and Experience has shown that it is in many Cases more conducive to Safety to use a heavier Description of Carriage or Waggon upon Railways than was originally contemplated: Be it therefore enacted, That every Provision contained in any such Act or Acts respectively limiting the Weight to be carried or borne at any One Time in any Carriage or Waggon upon any Railway (including the Weight of such Carriage or Waggon) to Four Tons shall be and the same is hereby repealed; and that, notwithstanding anything in any Act contained, it shall be lawful for any Railway Company to use and to permit to be used upon any Railway, Carriages or Waggon carrying or bearing (including the Weight of such Carriage) a greater Weight than Four Tons, subject to such Regulations as may from Time to Time be made and be in force pursuant to any Act or Acts of Parliament already or hereafter to be passed in that Behalf.

Repeal of
previous
provisions for
limitation to
four Tons.

Misconduct
of Persons
employed on
Railways;
Offences and
Penalties.

17. And whereas by the said recited Act for regulating Railways, Provision is made for the Punishment of Servants of Railway Companies guilty of Misconduct^a; and it is expedient to extend such Provision: Be it enacted, That it shall be lawful for any Officer or Agent of any Railway Company, or for any Special

^a § 13, 14 of 3 & 4 Vic. c. 97, (III. 13, 14): the provisions referred to relate to the servants of the Company to whom the Railway belongs; they are hereby extended to servants of other Companies using it.

Constable duly appointed, and all such Persons as they may call to their Assistance, to seize and detain any Engine Driver, Waggon Driver, Guard, Porter, Servant, or other Person employed by the said or by any other Railway Company, or by any other Company or Person, in conducting Traffic upon the Railway belonging to the said Company, or in repairing and maintaining the Works of the said Railway, who shall be found drunk while so employed upon the said Railway, who shall commit any Offence against any of the Bye Laws, Rules, or Regulations of the said Company, or who shall wilfully, maliciously, or negligently do or omit to do any Act whereby the Life or Limb of any Person passing along or being upon such Railway or the Works thereof respectively shall be or might be injured or endangered, or whereby the Passage of any Engines, Carriages, or Trains shall be or might be obstructed or impeded, and to convey such Engine Driver*, Guard, Porter, Servant, or other Person so offending, or any Person counselling, aiding, or assisting in such Offence, with all convenient Despatch, before some Justice of the Peace for the Place within which such Offence shall be committed, without any other Warrant or Authority than this Act; and every such Person so offending, and every Person counselling, aiding, or assisting therein, as aforesaid, shall, when convicted upon the Oath of One or more credible Witness or Witnesses before such Justice as aforesaid (who is hereby authorized and required, upon Complaint to him made upon Oath, without Information in Writing, to take cognizance thereof, and to act summarily^b in the Premises), in the Discretion of such Justice, be imprisoned, with or without hard Labour, for any Term not exceeding Two Calendar Months, or, in the like Discretion of such Justice, shall for every such Offence forfeit to Her Majesty any Sum not ex-

Summary
procedure.

* The words "Waggon Driver," in previous part of the section, are not here repeated; but he is included in the general words "or other person so offending."

^b And see § 14 of 3 & 4 Vic. c. 97 (III. 14).

ceeding Ten Pounds, and in default of Payment thereof shall be imprisoned, with or without hard Labour, as aforesaid, for such Period, not exceeding Two Calendar Months, as such Justice shall appoint; such Commitment to be determined on Payment of the Amount of the Penalty; and every such Penalty shall be returned to the next ensuing Court of Quarter Sessions in the usual Manner.

In Scotland, Sheriff or Magistrate to have jurisdiction of a Justice, in case of Offences committed in Scotland.

18....In all Cases in which by the present or the said recited Act for regulating Railways^a it is provided that Offenders shall be taken before One or more Justices of the Peace for the Place within which the Offence was committed, it shall be lawful, in case the Offence is committed in *Scotland*, to take such Offenders before the Sheriff of the County, or other Magistrate acting for the District within which such Offence shall be committed or where such Offender shall be apprehended, without any Warrant or Authority other than this Act; and such Sheriff or Magistrate is hereby empowered and required, on the Application of the Railway Company, to proceed in all respects as if the Words "Sheriff or Magistrate" had been substituted for the Word "Justice" in the said Acts, and shall be entitled summarily, and without a Jury, to execute the Powers thereby and hereby committed to him.

Notices and Communications to and from Board of Trade; Form and Service, &c., of same:

19....All Notices, Returns, and other Documents required by this Act or by the said recited Act^a to be given to or laid before the Lords of the said Committee, shall be delivered at or sent by the Post to the Office of the Lords of the said Committee; and all Notices, Requisitions, Orders, Regulations, Appointments, Certificates, certified Copies, and other Documents in Writing, signed by One of the Secretaries of the said Committee, or by some Officer appointed for that Purpose by the Lords of the said Committee, and purporting to be made by the Lords of the said Committee^b,

^a 3 & 4 Vic. c. 97 (III.)

^b See subsequent provision in act of 1851; § 3 of 14 & 15 Vic. c. 64 (XIII. 3.)

or the Purposes of this and of the said recited Act, shall be deemed to have been made by the Lords of the Committee, and that in the Absence of Evidence to the contrary, without Proof of the Authority of the person signing the same or of the Signature thereto; or the delivery of the same at One of the terminal Offices of any Railway Company on the Secretary or Clerk of such Company, or by sending the same by Post directed to him at such Office, shall be deemed good and valid as if made upon the said Company.

Service on
Railway
Company.

Whenever it shall be necessary to move any of the Officers or Soldiers of Her Majesty's Forces of the Ordnance Corps, Marines, Militia, or the Police by any Railway, the Directors thereof shall and they are hereby required to permit such Forces respectively, their Baggage, Stores, Arms, Ammunition, and other Necessaries and Things, to be conveyed at the Rates of Fares of starting, at such Prices or upon such Conditions as may from Time to Time be contracted between the Secretary at War and such Railway Companies for the Conveyance of such Forces, on the production of a Route or Order for their Conveyance by the proper Authorities^a.

Military and
Police to be
conveyed on
Railways at
Prices to be
settled be-
tween Secre-
tary at War
and the
Companies;

on produc-
tion of Route
or Order.

Whenever the Word "Railway" is used in this Act, it shall be construed to apply to all Railways used or intended to be used for the conveyance of Passengers in or upon Carriages drawn or propelled by the Power of Steam or by any other Mechanical Power; and whenever the Word "Company" is used in this or in the said recited Act it shall be construed to extend to and include the Proprietors of any Time being of any such Railway, whether a Corporation or Individuals, and their Lessees, Executives, Administrators, and Assigns, unless in either of

Interpre-
tation:
"Railway;"

"Company;"

^a 12 of act of 1844 (7 & 8 Vic. c. 85,) by which the provisions of this Act were amended and extended in reference to Railways obtaining acts in or after the year, (V. 12).

Vic. c. 97 (III.)

the above Cases the Subject or Context be ropes to such Construction.

Application
of Penalties.

22....All Penalties under this Act for the Application of which no special Provision is made, shall be recoverable in the Name and for the Use of Her Majesty, in the Manner provided by the said recited Act for regular Railways.

V.—RAILWAYS FURTHER REGULATION ACT, 1842

7 & 8 VICT. CAP. 85.

An Act to attach certain Conditions to the Construction of future Railways authorized or to be authorized by any Act of the present or succeeding Sessions of Parliament; and for other Purposes in relation to Railways.

[9th August, 1842]

Limitation
of Profits of
Railways:
Treasury may
revise Scale
of Tolls and
fix new Scale,
in cases
where the
Profits ex-
ceed 10 per
cent., after
21 Years
from passing
of Act for
Construction
of any future
Railway:

WHEREAS it is expedient that the Concession of Powers for the Establishment of new Lines of Railway should be subjected to such Conditions as are herein-after contained for the Benefit of the Public: Be it enacted, That if at any Time after the End of Twenty-one Years from and after the First Day of *January* next after the passing of any Act of the present or of any future Session of Parliament for the Construction of any new Line of Passenger Railway, whether such new Line be a Trunk, Branch, or Junction Line, and whether such new Line be constructed by a new Company incorporated for the Purpose or by any existing Company, the clear annual Profits divisible upon the subscribed and paid-up Capital Stock of the said Railway, upon the Average of the Three then last preceding Years, shall equal or ex-

* 3 & 4 Vic., c. 97, § 13-16 (III. p. 21 *et seq.*)

^b See note * in p. 1.

^c See interpretation of "Railway" and "Passenger Railway" in § 25, 0

Rate of Ten Pounds for every Hundred Pounds of paid-up Capital Stock, it shall be lawful for the Lords Commissioners of Her Majesty's Treasury, subject to the Provisions herein-after contained, upon giving to

said Company Three Calendar Months Notice in Writing of their Intention so to do, to revise the Scale of Tolls, Fares, and Charges limited by the Act or Acts relating to the said Railway, and to fix such new Scale of Tolls, Fares, and Charges, applicable to such different Classes and Kinds of Passengers, Goods, and other Traffic on such Railway, as in the Judgment of the said Lords Commissioners, assuming the same Quantities and Classes of Traffic to continue, shall be likely to reduce the said divisible Profits to the said Rate of Ten Pounds per Hundred: Provided always, that no such revised Scale shall take effect, unless accompanied by a Guarantee, to subsist as long as any such revised Scale of Tolls, Fares, and Charges shall be in force, that the said divisible Profits, in case of any Deficiency therein, shall be annually made good to the said Rate of Ten Pounds per every Hundred Pounds of such Capital Stock: Provided also, that such revised Scale shall not be again altered or such Guarantee withdrawn, otherwise than by the Consent of the Company, for the further Period of Twenty-one Years*.

Previous Notice to Company.

Proviso: such revision to be accompanied with a guarantee of 10 per cent.

...Whatever may be the Rate of divisible Profits on such Railway, it shall be lawful for the said Lords Commissioners, if they shall think fit, subject to the Provisions herein-after contained, at any Time after the expiration of the said Term of Twenty-one Years, to purchase any such Railway, with all its Hereditaments, Rights, and Appurtenances, in the Name and on Behalf of Her Majesty, upon giving to the said Company Three Calendar Months Notice in Writing of their Intention, upon Payment of a Sum equal to Twenty-five Years Purchase of the said annual divisible Profits, estimated

And Option to Treasury to Purchase Railways.

Notice to Company: Terms of Purchase.

Proviso for Arbitration in case of difference.

But no Option to purchase while revised rates in force.

Limitation as to Railways to which such Options apply :

not to apply to Branches or Extensions of less than 5 miles.

Policy of Revision or Purchase reserved for consideration of Parliament in each case.

on the Average of the Three then next preceding Years: Provided, that if the average Rate of Profits for the said Three Years shall be less than the Rate of Ten Pounds in the Hundred, it shall be lawful for the Company, if they shall be of Opinion that the said Rate of Twenty-five Years Purchase of the said average Profits is an inadequate Rate of Purchase of such Railway, reference being had to the Prospects thereof, to require that it shall be left to Arbitration, in case of Difference, to determine what (if any) additional Amount of Purchase Money shall be paid to the said Company: Provided also, that such Option of Purchase shall not be exercised, except with the Consent of the Company, while any such revised Scale^a of Tolls, Fares, and Charges shall be in force.

3. Provided always, and be it enacted, That the Option of Revision or Purchase shall not be applied to any Railway made or authorized to be made by any Act previous to the present Session; and that no Branch or Extension of less than Five Miles in Length of any such Line of Railway shall be taken to be a new Railway within the Provisions of this Act; and that the said Option of Purchase shall not be exercised as regards any Branch or Extension of any Railway, without including such Railway in the Purchase, in case the Proprietors thereof shall require that the same be so included.

4. And whereas it is expedient that the Policy of Revision or Purchase should in no manner be prejudged by the Provisions of this Act, but should remain for the future Consideration of the Legislature, upon Grounds of general and national Policy: And whereas it is not the Intention of this Act that under the said Powers of Revision or Purchase, if called into Use, the public Resources should be employed to sustain an undue Competition against any independent Company or Companies; be it enacted, That no such Notice as hereinbefore mentioned^b, whether of Revision or Purchase,

ven until Provision shall have been made by
 ;, by an Act or Acts to be passed in that
 authorizing the Guarantee or the Levy of the
 Money herein-before mentioned, as the Case
 nd for determining, subject to the Conditions
 re mentioned, the Manner in which the said

Notice for
 revision and
 Guarantee or
 Purchase not
 to be given
 till autho-
 rized by
 Parliament:

either of them shall be exercised; and that
 giving Powers to exercise the said Options,
 f them, shall be received in either House of
 ; unless it be recited in the Preamble to such
 'three Months Notice of the Intention to apply
 ent for such Powers has been given by the
 ; Commissioners to the Company or Com-
 e affected thereby.

and Notice of
 Intention to
 apply to
 Parliament.

n and after the Commencement of the Period
 Years next preceding the Period at which the
 Revision or Purchase becomes available, full
 accounts shall be kept of all Sums of Money
 id paid on account of any Railway within the
 herein-before contained, (distinguishing, if
 Railway shall be a Branch Railway or one
 common with other Railways, the Receipts,
 an Estimate of the Expenses, on account of
 ailway, from those on account of the Trunk
 her Railways,) by the Directors of the Com-
 om such Railway belongs or by whom the
 be worked; and every such Railway Company
 in every Half Year during the said Period of
 rs, cause a half-yearly Account in Abstract to
 d, showing the total Receipt and Expenditure
 : of the said Railway for the Half Year ending
 th Day of *June* and the Thirty-first Day of
 respectively, or such other convenient Days
 each Case be directed by the said Lords Com-
 under distinct Heads of Receipt and Expen-
 h a Statement of the Balance of such Account,
 ed and certified under the Hands of Two or
 tors of the said Railway Company; and shall

For such
 option, Ac-
 counts to be
 kept, and to
 be open to
 Inspection.

Half yearly
 abstracts to
 be prepared
 to periods
 prescribed by
 Treasury;

and sent to
Treasury.

Inspection of
Accounts by
Treasury.

Provision for
travelling of
Poorer
Classes :
Companies
to provide
One cheap
Train each
Way daily.

send a Copy of the said Account to the said Lords Commissioners on or before the last Days of *August* and *February* respectively, or such other Days as shall in each Case be directed by the said Lords Commissioners, in each Year; and it shall be lawful for the said Lords Commissioners, if and when they shall think fit, to appoint any proper Person or Persons to inspect the Accounts and Books of the said Company during the said Period of Three Years; and it shall be lawful for any Person so authorized, at all reasonable Times, upon producing his Authority, to examine the Books, Accounts, Vouchers, and other Documents of the Company at the principal Office or Place of Business of the Company, and to take Copies or Extracts therefrom.

6. And whereas it is expedient to secure to the poorer Class of Travellers the Means of travelling by Railway at moderate Fares, and in Carriages in which they may be protected from the Weather; be it enacted, That on and after the several Days hereinafter specified, all Passenger Railway^a Companies which shall have been incorporated by any Act of the present Session, or which shall be hereafter incorporated, or which by any Act of the present or any future Session have obtained or shall obtain, directly or indirectly, any Extension or Amendment of the Powers conferred on them respectively by their previous Acts, or have been or shall be authorized to do any Act unauthorized by the Provisions of such previous Acts, shall, by means of One Train at the least, to travel along their Railway from one End to the other of each Trunk, Branch, or Junction Line belonging to or leased by them, so long as they shall continue to carry other Passengers over such Trunk, Branch, or Junction Line, once at the least each Way on every Week Day^b, except *Christmas Day* and *Good Friday* (such Exception not to extend to *Scotland*), provide for the Convey-

^a See interpretation of "Railway" and "Passenger Railway" in § 25 (p. 57).

^b See provision for Sundays, in § 10, (p. 47.)

ance of Third Class Passengers to and from the terminal and other ordinary Passenger Stations of the Railway, under the Obligations contained in their several Acts of Parliament, and with the Immunities applicable by Law to Carriers of Passengers by Railway; and also under the following Conditions; that is to say,

Such Train shall start at an Hour to be from Time to Time fixed by the Directors, subject to the Approval of the Lords of the Committee of Privy Council for Trade and Plantations: Regulations as to cheap trains.

Such Train shall travel at an average Rate of Speed not less than Twelve Miles an Hour for the whole Distance travelled on the Railway, including Stoppages:

Such Train shall, if required, take up and set down Passengers at every Passenger Station which it shall pass on the Line:

The Carriages in which Passengers shall be conveyed by such Train shall be provided with Seats, and shall be protected from the Weather, in a Manner satisfactory to the Lords of the said Committee:

The Fare or Charge for each Third Class Passenger by such Train shall not exceed One Penny for each Mile travelled*:

Each Passenger by such Train shall be allowed to take

* See also § 10. There is no special provision in this act as to fractions or portions of a mile; and it has been held by the Court of Common Pleas in Ireland, (*Rice v. Dublin and Wicklow Railway Company*), that the Railway Company are not entitled to charge fractions of pence for fractions of miles, under these words, where the distance is more than a mile. The same construction would preclude the Company from charging any thing at all for a journey where the distance travelled from one station to another is less than a mile, if that construction applies to such cases. There is, however, difference of opinion on the subject; and in order to remove doubts and remedy the injustice of such a construction, this provision has been amended by 21 & 22 Vic. c. 75, which now authorizes a charge of one penny for a Railway journey of less than a mile, and a halfpenny for every complete half-mile above a mile (XVI. 1).

It will be observed that under § 8 of the present act, the fares by these cheap trains are excepted from the discretionary power of the Board of Trade. The only particulars in which the approval of that Board is required under § 6, are the hours, the manner of protection from the weather, and perhaps of providing seats; in these and other particulars, a dispensing power is given by § 8 to the Board of Trade, on other and more convenient arrangements being made.

with him Half a Hundred Weight of Luggage being Merchandise or other Articles carried Hire or Profit, without extra Charge; and Excess of Luggage shall be charged by Weight at a Rate not exceeding the lowest Rate of Cheap Passengers' Luggage by other Trains:

Children under Three Years of Age accompanying Passengers by such Train shall be taken at any Charge; and Children of Three Years upwards, but under Twelve Years of Age, at the Charge for an Adult Passenger:

And with respect to all Railways subject to these Regulations, which shall be open on or before the First of November next, these Obligations shall come into force on the said First Day of November; and with respect to all other Railways subject to these Obligations, they shall come into force on the Day of opening of the Railway, or the Day after the last Day of the Session in which the Act shall be passed by reason of which the Company will become subject thereunto, which shall first be ascertained.

Penalty for Non-compliance with provisions as to Cheap Trains.

7....If any Railway Company shall refuse or neglect to comply with the Provisions of this Act as to the said cheap Trains, within a reasonable Time, or attempt to evade the Operation of such Order, the Company shall forfeit to Her Majesty a Sum not exceeding Twenty Pounds for every Day during which such Refusal, Neglect, or Evasion shall continue.

Board of Trade may dispense with conditions as to cheap trains and allow alternative Arrangements, except as to rate of Fare.

8. Provided always, and be it enacted, That, as to the Amount of Fare or Charge for each Passenger by such cheap Trains, which shall in no Case exceed the Rates herein-before^a in such Case provided, the Local Board the said Committee shall have a discretionary Power upon the Application of any Railway Company,

^a The words "or shall attempt to evade the operation of such order" to be surplusage and of no effect, there being no antecedent to "and in the preceding "provisions of this act as to the said cheap trains." The Company would be liable to the penalty for not complying with those provisions of the act "within a reasonable time," but subject to the provisions of § 4.

^b § 6; and see note ^a in p. 45.

with any of the Conditions herein-before required^a in regard to the Conveyance of Passengers by such cheap Trains as aforesaid, in consideration of such other circumstances, either in regard to Speed, covering from weather, Seats, or other Particulars, as to the Lords of the said Committee shall appear more beneficial and convenient for the Passengers by such cheap Trains than the Circumstances of the Case, and shall be sanctioned by them accordingly; and any Railway Company shall conform to such other Conditions as shall be sanctioned by the Lords of the said Committee shall be liable to any Penalty for not observing the Conditions which shall have been so dispensed with by the Lords of the said Committee in regard to the said cheap Trains and the Passengers conveyed thereby.

Company not liable to Penalties for not observing conditions dispensed with.

No Tax shall be levied upon the Receipts of any Railway Company from the Conveyance of Passengers by such cheap Trains as aforesaid^b not exceeding One Penny for each Mile by each cheap Train as aforesaid^b.

Receipts from cheap train passengers exempt from Passenger tax.

Whenever any Railway Company subject to the before mentioned Obligation of running cheap Trains shall, from and after the Days herein-before specified on which the said Obligation is to accrue, run any Train or Trains on *Sundays* for the Conveyance of Passengers, it shall, under the Obligations contained in the Statutes or Acts of Parliament, and with the Immunities granted by Law to Carriers of Passengers by Railway such Train each Way, on every *Sunday*, as to stop at the greatest Number of Stations, provide sufficient Carriages for the Conveyance of Third Class Passengers, at the terminal and other Stations at which any *Sunday* Train may ordinarily stop; and the Fare for each Third Class Passenger by such Train shall not exceed One Penny for each Mile travelled^c.

Where Companies run Trains on the *Sunday* cheap Trains to be likewise provided.

^a 6 Vic. c. 79, imposing a tax or duty to be paid by Railway Companies in Great Britain, in respect of Railway Passengers other than those here (post, XVIII.)
^b in p. 45, and 21 & 22 Vic. c. 75, § 1 (XVI. 1.)

Mails:
Powers of
Postmaster
General:

Rate of
speed;

Sending
Guard and
Mail Bags by
ordinary
trains;

Provisions.

Conveyance
of Military
and Police
Forces;
5 & 6 Vict.
c. 55.

11. And whereas by an Act passed in the Year of the Reign of Her Majesty, intituled, *provide for the Conveyance of the Mails by* Provision was made for the Transmission of by Railway; and it is expedient that such should be extended; be it enacted, That it shall be lawful for the Postmaster General to require, in manner and subject to the Conditions as to Pay Service performed prescribed by the said Act, Mails be forwarded upon any such Railway at before last mentioned at any Rate of Speed: Inspector General of Railways for the Time being certify to be safe, not exceeding Twenty-seven the Hour including Stoppages; and it shall be lawful for the Postmaster General to send any Mail with Bags not exceeding the Weight of allowed to any other Passenger (or subject to the Rules of the Company for any Excess Weight) by any Trains other than a Mail Train on the same Conditions as any other Passenger; that in such last-mentioned Case nothing but the last-recited Act* contained shall be construed to authorize the Postmaster General to require the formation of a regular Mail Train into an ordinary train, nor shall the exercise of any Control over the Company in any ordinary Train, nor shall the Company be liable for the safe Custody or Delivery of any Mail so sent.

12. And whereas by an Act passed in the Year of the Reign of Her Majesty, intituled *An Act for the better Regulation of Railways, and for the Conveyance of Troops*, it was among other things enacted, that whenever it shall be necessary to move any Officers or Soldiers of Her Majesty's Forces

* 1 & 2 Vic. c. 98; (p. 1.)

† No such officer is mentioned elsewhere; § 5 of 3 & 4 Vic. of the present act give power to the Board of Trade to appoint officers for the purposes therein described (III. 5, V. 15.)

* § 20 of 5 & 6 Vic. c. 55, (p. IV. 20).

Line, Ordnance Corps, Marines, Militia, or the Police Force, by any Railway, the Directors thereof shall and are hereby required to permit such Forces respectively, with their Baggage, Stores, Arms, Ammunition, and other Necessaries and Things, to be conveyed at the usual Hours of starting, at such Prices or upon such Conditions as may from Time to Time be contracted for between the Secretary at War and such Railway Companies for the Conveyance of such Forces, on the Production of a Route or Order for their Conveyance signed by the Proper Authorities; And whereas it is expedient to amend such Provision in regard to the Prices and Conditions of Conveyance by any new Railway, or any Railway obtaining new Powers from Parliament: be it enacted, That all Railway Companies which have been or shall be incorporated by any Act of the present or any future Session, or which by any Act of the present or any future Session shall have obtained or shall obtain any Extension or Amendment of the Powers conferred by their previous Acts or any of them, or have been or shall be authorized to do any Act unauthorized by the Provisions of such previous Acts, shall be bound to provide such Conveyance as aforesaid for the said Military, Marine, and Police Forces, at Fares not exceeding Two-pence *per* Mile for each Commissioned Officer proceeding on Duty, such Officer being entitled to Conveyance in a First Class Carriage,—and not exceeding One Penny for each Mile for each Soldier, Marine, or Private of the Militia or Police Force, and also for each Wife, Widow, or Child (above Twelve Years of Age) of a Soldier, entitled by Act of Parliament or by competent Authority to be sent to their Destination at the public Expense,—Children under Three Years of Age so entitled being taken free of Charge,—and Children of Three Years of Age or upwards, but under Twelve Years of Age, so entitled, being taken at Half the Price of an Adult; and such Soldiers, Marines, and Privates of the Militia or Police Force,

Companies obtaining acts in or since 1844, to convey Military and Police, at prescribed rates:

Fares;

Accommodation;

Luggage.

Charges for
Public
Baggage.Electric
Telegraphs:
Railway
Companies
to allow
Lines of
Telegraph
to be estab-
lished by
Board of
Trade, for
the public
service:Remunera-
tion:

and their Wives, Widows, and Children so as being conveyed in Carriages which shall be provided with Seats, with sufficient Space for the reasonable Accommodation of the Persons conveyed, and which shall be protected against the Weather; provided every Officer conveyed shall be entitled to take with him One Hundred Weight of personal Luggage without extra Charge, and every Soldier, Marine, Private, or Widow shall be entitled to take with him or her a Hundred Weight of personal Luggage without Charge, all Excess of the above Weights of personal Luggage being paid for at the Rate of not more than One Halfpenny per Pound; and all public Baggage, Stores, Arms, Ammunition, and other Necessary Things, (except Gunpowder and other combustible Matters, which the Company shall only be bound to convey at such Prices and upon such Conditions as may be from Time to Time contracted for between the Secretary at War and the Company,) shall be conveyed at Charges not exceeding Two-pence per Ton per Mile, the Assistance of the Military or other Forces being given in loading and unloading such Goods.

13. And whereas Electrical Telegraphs have been established on certain Railways, and may be more extensively established hereafter, and it is expedient to provide for their due Regulation; be it enacted, that every Railway Company, on being required so to do by the Lords of the said Committee, shall be bound to allow any Person or Persons authorized by the Lords of the said Committee, with Servants and Workmen, at such reasonable Times to enter into or upon their Lands to establish and lay down upon such Lands adjacent to the Line of such Railway, a Line of Electrical Telegraph for Her Majesty's Service, and to give to him and to every reasonable Facility for laying down the same, and for using the same for the Purpose of receiving and sending Messages on Her Majesty's Service, subject to such reasonable Remuneration to the Company as

be agreed upon between the Company and the Lords of the said Committee, or in case of Disagreement as may be settled by Arbitration: Provided always, that, subject to a prior Right of Use thereof for the Purposes of Her Majesty, such Telegraph may be used by the Company for the Purposes of the Railway upon such Terms as may be agreed upon between the Parties, or, in the event of Difference, as may be settled by Arbitration.

Use of Telegraph by the Company.

14.... Where a Line of Electrical Telegraph shall have been established upon any Railway by the Company to whom such Railway belongs, or by any Company, Partnership, Person or Persons, otherwise than exclusively for Her Majesty's Service, or exclusively for the Purposes of the Railway, or jointly for both, the Use of such Electrical Telegraph, for the Purpose of receiving and sending Messages, shall, subject to the prior Right of Use thereof for the Service of Her Majesty and for the Purposes of the Company, and subject also to such equal Charges and to such reasonable Regulations as may be from Time to Time made by the said Railway Company, be open for the sending and receiving of Messages by all Persons alike, without Favour or Preference.

Telegraphs established by Companies to be open to the Public, subject to prior uses ;

Charges and Regulations.

15. And whereas by an Act passed in the Fourth Year of the Reign of Her Majesty, intituled *An Act to regulate Railways*^a, Power is given to the Lords of the said Committee to appoint any proper Person or Persons to inspect any Railway, and the Stations, Works, and Buildings, and the Engines and Carriages belonging thereto; and in order to carry the Provisions of this Act into execution it is expedient that the said Power be extended; be it enacted, That the said Power given to the Lords of the said Committee of appointing proper Persons to inspect Railways shall extend to authorize the Appointment by the Lords of the said

Appointment of Inspectors by Board of Trade: provisions of 3 & 4 Vict. c. 97, extended.

^a Sic : 3 & 4 Vic. c. 97, "An Act for regulating Railways," § 5 (III. 5), the "said Act" being correctly referred to in § 16 of the present act, (p. 52).

Powers of
Inspectors.

Repeal of
prohibition
against Di-
rectors being
Inspectors.

Inspectors
not to in-
terfere in
Company's
affairs.
Proceedings
against
Railway
Companies
for non-
compliance
with acts:
Repeal of
§ 11 of 3 & 4
Vict. c. 97.

Committee of any proper Person or Persons, Purposes of Inspection as are by the said Act authorized, and also for the Purpose of enabling the the said Committee to carry the Provisions of of the said Act and of any general Act re Railways into execution; and that so much of recited Act as provides^a that “no Person shall be appointed as Inspector who shall, within the Year of his Appointment, have been a Director or have held any Office of Trust or Profit under any Railway Company,” shall be repealed: Provided also that no Person to be appointed as aforesaid shall exercise the Powers of Interference in the Affairs of the Company.^b

16. And whereas by the said Act^b of the Fourth Year of the Reign of Her Majesty, intituled *An Act for regulating Railways*, it is among other things enacted that “whenever it shall appear to the Lords of the Council in Privy that any of the Provisions of the said Acts of Parliament regulating any Railway Company or the Provisions of that Act, have not been complied with on the Part of any of the said Companies or of their Officers, and that it would be for the Public Advantage that the due Performance of the said Provisions should be enforced, the Lords of the said Council shall certify the same to Her Majesty’s Attorney General for *England* or *Ireland*, or to the Lord Advocate for *Scotland*, as the Case may require; and he or she shall, by Information, or by Action, Bill, Plaint or at Law or in Equity, or other legal Proceedings (as the Case may require), proceed to recover such Penalties and Forfeitures, or otherwise to enforce the Performance of the said Provisions, by such Person as any Person aggrieved by such Non-compliance shall otherwise be authorized to sue for such Penalties

^a 3 & 4 Vic. c. 97, “An Act for regulating Railways,” § 5 (III. 5)

^b See note ^a in p. 51.

^c § 11 of 3 & 4 Vic. c. 97 (III. 11).

“employ under the Provisions of the said Acts; provided always, that no such Certificate as aforesaid shall be given by the Lords of the said Committee until Twenty-one Days after they shall have given Notice of their Intention to give the same to the Company against or in relation to whom they shall intend to give the same”: And whereas it is expedient that more effectual Provision should be made, not only for enforcing a Compliance on the Part of Railway Companies with the Provisions of their Acts, but also for restraining Railway Companies from performing Acts unauthorized by such Provisions; be it enacted, That so much of the said Act as is herein-before recited shall be repealed.

17....Whenever it shall appear to the Lords of the said Committee that any of the Provisions of the several Acts of Parliament regulating any Railway Company, or the Provisions of this Act or of any general Act relating to Railways, have not been complied with on the Part of any Railway Company or any of its Officers, or that any Railway Company has acted or is acting in a Manner unauthorized by the Provisions of the Act or Acts of Parliament relating to such Railway, or in Excess of the Powers given and Objects defined by the said Act or Acts, and it shall also appear to the Lords of the said Committee that it would be for the public Advantage that the Company should be restrained from so acting, the Lords of the said Committee shall certify the same to Her Majesty's Attorney General for *England* or *Ireland*, or to the Lord Advocate for *Scotland*, as the Case may require; and thereupon the said Attorney General or Lord Advocate shall, in case such Default of the Railway Company shall consist of Non-compliance with the Provisions of the Act or Acts relating thereto or of this Act, or of any general Act relating to Railways, proceed by Information, or by Action, Bill, Complaint, Suit at Law or in Equity, or other legal Proceeding, as the Case may require, to recover

Proceedings against Companies for contravening or exceeding Provisions of Railway Acts, on the Board of Trade certifying same to the Attorney General, &c.;

For non-compliance with acts;

For Com-
mission of
unauthorized
acts.

such Penalties and Forfeitures, or otherwise to enforce the due Performance of the said Provisions, by such Means as any Person aggrieved by such Non-compliance, or otherwise authorized to sue for such Penalties, might employ under the Provisions of the said Acts; and in case the Default of the Railway Company shall consist in the Commission of some Act or Acts unauthorized by Law, then the said Attorney General or Lord Advocate, upon receiving such Certificate as aforesaid, shall proceed by Suit in Equity, or such other legal Proceeding as the Nature of the Case may require, to obtain an Injunction or Order (which the Judge in Equity or other Judge to whom the Application is made shall be authorized and required to grant, if he shall be of opinion that the Act or Acts of the Railway Company complained of is or are not authorized by Law,) to restrain the Company from acting in such illegal Manner, or to give such other Relief as the Nature of the Case may require.

Notice to
Company,
before issue
of Board of
Trade's
certificate:

Limitations
of Prosec-
utions.

18. Provided always, and be it enacted, That no such Certificate as aforesaid shall be given by the Lords of the said Committee until Twenty-one Days after they shall have given Notice to the Company against or in relation to whom they shall intend to give such Certificate, of their Intention to give such Certificate; and that no legal Proceedings shall be commenced under the Authority of the Lords of the said Committee against any Railway Company for any Offence against any of the several Acts relating to Railways or this Act, or any general Act relating to Railways, except upon such Certificate of the Lords of the said Committee as aforesaid, and within One Year after such Offence shall have been committed.

Loan Notes
and other
illegal Se-
curities by
Railway
Companies:

19. And whereas many Railway Companies have borrowed Money in a Manner unauthorized by their Acts of Incorporation, or other Acts of Parliament relating to the said Companies, upon the Security of Loan Notes or other Instruments purporting to give a Secu-

9-21.] 7 & 8 Vict. c. 85: (1844.)

or the Repayment of the Principal Sums borrowed
ertain Dates, and for the Payment of Interest
on in the meantime: And whereas such Loan Notes
her Securities, issued otherwise than under the
sion of some Act or Acts of Parliament, have no
Validity, and it is expedient that the Issue of such
l Securities should be stopped; but such Loan
or other Securities having been issued and re-
d in good Faith as between the Borrower and
er, and for the most Part for the lawful Purposes
e Undertaking, and in Ignorance of their legal
idity, it is expedient to confirm such as have been
ly issued; be it enacted, That from and after the
ig of this Act, any Railway Company issuing any
Note or other negotiable or assignable Instrument
rting to bind the Company as a legal Security for
advanced to the said Railway Company, other-
an under the Provisions of some Act or Acts of
nent authorizing the said Railway Company to
ch Money and to issue such Security, shall, for
uch Offence, forfeit to Her Majesty a Sum equal
um for which such Loan Note or other Instru-
rports to be such Security: Provided always,
Company may renew any such Loan Note or
rument issued by them prior to the passing of
for any Period or Periods not exceeding Five
m the passing of this Act.

here any Railway Company, before the Twelfth
y One thousand eight hundred and forty-four,
issued or contracted to issue any such Loan
ther unauthorized Instruments, the Company
all pay off such Loan Notes or other Instru-
e same may fall due, subject as herein-before
nd until the same shall be so paid off, the said
or other Instruments shall entitle the Hold-
to the Payment by the Company of the
m and Interest thereby agreed to be paid.

gister of all such Loan Notes or other In-

Future issue
of such Loan
Notes or
Securities for
Loans other
than as
authorized
by act, pro-
hibited:

under
Penalty:

But Loan
Notes, &c.,
issued before
9 Aug. 1844,
may be
renewed for
time limited.

Loan Notes,
&c., issued
before 12
July 1844,
to be paid
when due.

Register of

Loan Notes,
&c., to be
kept; and
open to
inspection.

struments shall be kept by the Secretary; and such Register shall be open, without Fee or Reward, at all reasonable Times, to the Inspection of any Shareholder or Auditor of the Undertaking, and of every Person interested in any such Loan Note or other Instrument, desirous of inspecting the same.

Tithe Rent
Charge on
Railway
Land; may
be recovered
by distraint
as for Rent.

22. And whereas the Remedies now in force for the Recovery of Tithe Commutation Rent-charges are in many Instances ineffectual for such Parts thereof as are charged upon Lands taken for the Purposes of a Railway, and it is therefore expedient to extend the said Remedies when the said Rent-charges may have been duly apportioned; be it enacted, That in all Cases in which any such Rent-charge, or Part of any Rent-charge, has been or hereafter shall be duly apportioned under the Provisions of the Acts for the Commutation of Tithes in *England* and *Wales*, upon Lands taken or purchased by any Railway Company for the Purposes of such Company, or upon any Part of such Lands, it shall be lawful for every Person entitled to the said Rent-charge or Parts of such Rent-charge, in case the same has been or shall be in arrear and unpaid for the Space of Twenty-one Days next after any half-yearly Day fixed for the Payment thereof, to distrain for all Arrears of the said Rent-charge, upon the Goods, Chattels, and Effects of the said Company, whether on the Land charged therewith, or any other Lands, Premises, or Hereditaments of such Company, whether situated in the same Parish or elsewhere, and to dispose of the Distress when taken, and otherwise to demean himself in relation thereto, as any Landlord may for Arrears of Rent reserved on a Lease for Years: Provided always, that nothing herein contained shall give or be construed to give a legal Right to such Rent-charge, when but for this Act such Rent-charge was not or could not be duly apportioned.

Provido.

Notices and
Communica-
tions to and

23....All Notices, Requisitions, Orders, Regulations, Appointments, Certificates, certified Copies, and other

ments in Writing, signed by some Officer appointed for the Purpose by the Lords of the said Committee, or the Purposes of this Act be deemed to have been made by the Lords of the said Committee; and all Minutes of Proceedings or Correspondence of the said Committee in relation thereto, signed by such Officer, shall be deemed sufficient Evidence; and that, in the Absence of Evidence to the contrary, without Proof of the Authority of the Person giving the same, or of the Signature thereto; and the Service of the same at one of the Principal Offices of any Railway Company on the Secretary or Clerk of the Company, or by sending the same by Post addressed to such Office, shall be deemed good Service on the said Company; and all Notices, Returns, and Documents required by this Act to be given to or before the Lords of the said Committee, shall be deemed to be so given if delivered at or sent by Post addressed to the Office of the said Committee.

from Board of Trade, and Service, &c., of same;

Service on Company.

Service of Notices, &c. on Board of Trade.

All Penalties under this Act for the Application of which no special Provision is made, shall be recovered in the Name and for the Use of Her Majesty, and may be recovered in any of Her Majesty's Courts of Record, the Court of Session or in any of the Sheriff Courts of Scotland.

Recovery and application of Penalties.

Where the Word "Railway" is used in this Act, it shall be construed to extend to Railways constructed under the Powers of any Act of Parliament; and when the Words "Passenger Railway" are used in this Act, they shall be construed to extend to Railways, constructed under the Powers of any Act of Parliament, in which One Third or more of the gross annual Revenue is derived from the Conveyance of Passengers by Steam or other mechanical Power; and whenever

Interpretation: "Railway."

"Passenger Railway."

"Company." the Word "Company" is used in this Act, it shall be construed to extend to include the Proprietors for the Time being of any such Railway; and where a different Sense is not expressly declared, or does not appear by the Context, every Word importing the Singular Number or the Masculine Gender shall be taken to include Females as well as Males, and several Persons and Things as well as one Person or Thing.

VI.—COMPANIES CLAUSES ACT, 1845.

8 VICT. CAP. 16.

An Act for consolidating in One Act certain Provisions usually inserted in Acts with respect to the Constitution of Companies incorporated for carrying on Undertakings of a public Nature.

[8th May, 1845.]

Act to apply
to all Com-
panies in-

WHEREAS it is expedient to comprise in One General Act sundry Provisions, relating to the Constitution and Management of Joint Stock Companies, usually introduced into Acts of Parliament authorizing the Execution of Undertakings of a public Nature by such Companies, and that as well for the Purpose of avoiding the Necessity of repeating such Provisions in each of the several Acts relating to such Undertakings as for ensuring greater Uniformity in the Provisions themselves: May it therefore please Your Majesty that it may be enacted, and be it enacted^a....That this Act shall apply to every Joint Stock Company which shall by

^a See note ^a in p. 1.

any Act which shall hereafter be passed, be incorporated for the Purpose of carrying on any Undertaking; and this Act shall be incorporated with such Act; and all the Clauses and Provisions of this Act, save so far as they shall be expressly varied or excepted by any such Act, shall apply to the Company which shall be incorporated by such Act, and to the Undertaking for carrying on which such Company shall be incorporated, so far as the same shall be applicable thereto respectively; and such Clauses and Provisions, as well as the Clauses and Provisions of every other Act which shall be incorporated with such Act, shall, save as aforesaid, form Part of such Act, and be construed together therewith as forming One Act.

incorporated
by future
Acts:
Incorporation of Acts
or Clauses.

2. And *with respect to the Construction of this Act, and of other Acts to be incorporated therewith*, be it enacted as follows:

Construction of Acts.

The Expression "the special Act," used in this Act, shall be construed to mean any Act which shall be hereafter passed incorporating a Joint Stock Company for the Purpose of carrying on any Undertaking and with which this Act shall be so incorporated as aforesaid^a; and the Word "prescribed," used in this Act in reference to any Matter herein stated, shall be construed to refer to such Matter as the same shall be prescribed or provided for in the special Act; and the Sentence in which such Word shall occur shall be construed as if, instead of the word "prescribed," the Expression "prescribed for that Purpose in the special Act" had been used; and the Expression "the Undertaking" shall mean the Undertaking or Works, of whatever Nature, which shall by the special Act be authorized to be executed.

Interpretations:
"The special Act;"

"Prescribed;"

"The Undertaking."

3. The following Words and Expressions, both in this and the special Acts, shall have the several Meanings hereby assigned to them, unless there be something in

Interpretation of this and special Acts of a Company:

the Subject or the Context repugnant to such Construction; that is to say,

- Number;** Words importing the Singular Number only, shall include the Plural Number; and Words importing the Plural Number only, shall include the Singular Number:
- Gender ;** Words importing the Masculine Gender only, shall include Females:
- "Lands;"** The Word "Lands" shall extend to Messuages, Lands, Tenements, and Hereditaments of any Tenure:
- "Lease;"** The Word "Lease" shall include an Agreement for a Lease:
- "Month;"** The Word "Month" shall mean Calendar Month:
- "Superior Courts;"** The Expression "Superior Courts" shall mean Her Majesty's Superior Courts of Record at *Westminster* or *Dublin*, as the case may require:
- "Oath;"** The Word "Oath" shall include Affirmation in the Case of Quakers, or other Declaration lawfully substituted for an Oath in the Case of any other Persons exempted by Law from the Necessity of taking an Oath:
- "County;"** The Word "County" shall include any Riding or other like Division of a County, and shall also include County of a City or County of a Town:
- "Justice;"** The Word "Justice" shall mean Justice of the Peace acting for the County, City, Borough, Liberty, Cinque Port, or other Place where the Matter requiring the Cognizance of any such Justice shall arise, and who shall not be interested in the Matter; and where any Matter shall be authorized or required to be done by Two Justices, the Expression "Two Justices" shall be understood to mean Two Justices assembled and acting together in Petty Sessions:
- "Two Justices;"**
- "The Company;"** The Expression "the Company" shall mean the Company constituted by the special Act:
- "Directors;"** The Expression "the Directors" shall mean the

Directors of the Company, and shall include all Persons having the Direction of the Undertaking, whether under the Name of Directors, Managers, Committee of Management, or under any other Name:

The Word "Shareholder" shall mean Shareholder, Proprietor, or Member of the Company^a; and in referring to any such Shareholder, Expressions properly applicable to a Person shall be held to apply to a Corporation^b: And the Expression "the Secretary" shall mean the Secretary of the Company, and shall include the Word "Clerk."^c

"Shareholder;"

Corporation.

"Secretary."

..In citing this Act in other Acts of Parliament in legal Instruments, it shall be sufficient to use the Expression "The Companies Clauses Consolidation 1845."

Short Title of Act.

And whereas it may be convenient in some Cases to incorporate with Acts of Parliament hereafter to be made, some Portion only of the Provisions of this Act; therefore enacted, That for the Purpose of making such Incorporation, it shall be sufficient in any such Act to enact, that the Clauses and Provisions of this Act with respect to the Matter so proposed to be incorporated, (describing such Matter as it is described in the Words introductory to the Enactment with respect to such Matter^d,) shall be incorporated with such Act; and thereupon all the Clauses and Provisions of such Act with respect to the Matter so incorporated, save so far as they shall be expressly varied or amended by such Act, form Part of such Act; and such

Manner in which Portions of this Act may be incorporated with other Acts.

^a see § 8, as to "Shareholders," (p. 62).

^b see § 21, under which the legal personal representatives of a Shareholder are included in that term, for the purpose of enforcing the payment of Div. 21.)

^c for definition of "Ordinary Meetings," see § 66 : of "Extraordinary Meetings," § 68; (VI. 66, 68.)

^d "words introductory to the enactment with respect to" any matter in this Act are herein printed in *italic* type, as in case of the words introductory to § 62; to § 14-20 (p. 65); &c.

Act shall be construed as if the Substance of such Clauses and Provisions were set forth therein with reference to the Matter to which such Act shall relate.

*Distribution
of Capital.*

And *with respect to the Distribution of the Capital of the Company into Shares^a*, be it enacted as follows:

Capital to be
divided into
Shares.

6. The Capital of the Company shall be divided into Shares of the prescribed Number and Amount; and such Shares shall be numbered in arithmetical Progression, beginning with Number One; and every such Share shall be distinguished by its appropriate Number^b.

Shares,
Personal
Estate.

7. All Shares in the Undertaking shall be Personal Estate, and transmissible as such, and shall not be of the nature of Real Estate.

Share-
holders, who.

8. Every Person^c who shall have subscribed the prescribed Sum or upwards to the Capital of the Company, or shall otherwise have become entitled to a Share in the Company, and whose Name shall have been entered on the Register of Shareholders herein-after mentioned^d, shall be deemed a Shareholder^e of the Company.

Registry
of Share-
holders:

9. The Company shall keep a Book, to be called the "Register of Shareholders^f;" and in such Book shall be fairly and distinctly entered, from Time to Time, the Names of the several Corporations^g, and the Names and Additions of the several Persons^h, entitled to Shares in the Company, together with the Number of Shares to which such Shareholders shall be respectively entitled, distinguishing each Share by its Numberⁱ, and the

^a And with respect to the conversion of shares into stock, see § 61 *et seq.*

^b This provision (which is however superseded in case of the conversion of shares into stock; § 62, p. 81-2,) does not preclude several shares from being included and "distinguished by their appropriate numbers" in one and the same certificate under § 11; but the latter section and the form referred to in it evidently contemplate a separate share certificate for each share, notwithstanding the construction of number in § 3.

^c Person or Corporation; see interpretation of "Shareholder" in § 3 (p. 61); and see § 9, 78, 137 as to joint shareholders. ^d § 9.

^e For a Form for such book, see Appendix.

^f See note ^c, and § 78, 137, in reference to entry of names of joint shareholders; § 6.

Amount of the Subscriptions paid on such Shares; and the Surnames or Corporate Names of the said Shareholders shall be placed in alphabetical Order; and such Book shall be authenticated by the Common Seal of the Company being affixed thereto; and such Authentication shall take place at the First Ordinary Meeting, or at the next subsequent Meeting of the Company, and so from Time to Time at each Ordinary Meeting^a of the Company^b.

Authentica-
tion of Regis-
ter;

to be sealed
at Ordinary
General
Meetings.

10. In addition to the said Register of Shareholders, the Company shall provide a Book, to be called the "Shareholders Address Book," in which the Secretary^c shall from Time to Time enter in alphabetical Order the Corporate Names and Places of Business of the several Shareholders of the Company, being Corporations, and the Surnames of the several other Shareholders^d with their respective Christian Names, Places of Abode, and Descriptions, so far as the same shall be known to the Company^e: and every Shareholder, or if such Shareholder be a Corporation, the Clerk or Agent of such Corporation, may at all convenient Times peruse such Book *gratis*, and may require a Copy thereof or of any Part thereof; and for every Hundred Words so required to be copied, the Company may demand a Sum not exceeding Sixpence^f.

Addresses:
"Share-
holders Ad-
dress Book."

Fees.

11. On Demand of the Holder of any Share, the Company shall cause a Certificate of the Proprietorship

Certificates
of Shares to
be issued to
Share-
holders.

^a See § 66 as to ordinary meetings.

^b Under § 28, the Register is made evidence of the proprietorship of shares.

^c Or a Clerk; see § 3. It is of course not required that the Secretary should do this and all other clerical business laid upon him, with his own hand; but he must have it done.

^d See note ^c in p. 62.

^e See § 136, 137, under which the transmission of notices, &c., by post to the registered address is sufficient service, except where personal service is required: Shareholders should therefore take care to notify their addresses and changes of address, in order that the Address Book may be duly kept up. No form for the Book is annexed to the act; but see a form, containing heads for the particulars required by the Act, in Appendix.

^f The copy may be made by the Company or the requisitionist, the Company paying the fee in either case.

Form (A.)

Fee.

Share Certificate to be Evidence.

Share Certificates worn out, &c., may be cancelled and renewed:

and Certificates lost or destroyed

new Certificates to be entered in register.

Fee for new Certificates, 2s. 6d.

of such Share to be delivered to such Shareholder; and such Certificate shall have the Common Seal of the Company affixed thereto; and such Certificate shall specify the Share in the Undertaking to which such Shareholder is entitled; and the same may be according to the Form in the Schedule (A.)^a to this Act annexed, or to the like Effect; and for such Certificate, the Company may demand any Sum not exceeding the prescribed Amount, or if no Amount be prescribed, then a Sum not exceeding Two Shillings and Sixpence.

12. The said Certificate^b shall be admitted in all Courts as *prima facie* Evidence of the Title of such Shareholder, his Executors, Administrators, Successors, or Assigns, to the Share therein specified; nevertheless, the Want of such Certificate shall not prevent the Holder of any Share from disposing thereof^c.

13. If any such Certificate^b be worn out or damaged, then, upon the same being produced at some Meeting of the Directors, such Directors may order the same to be cancelled, and thereupon another similar Certificate^b shall be given to the Party in whom the Property of such Certificate, and of the Share therein mentioned, shall be at the Time vested; or if such Certificate be lost or destroyed, then, upon Proof thereof to the Satisfaction of the Directors, a similar Certificate shall be given to the Party entitled to the Certificate so lost or destroyed: and in either Case a due Entry of the substituted Certificate shall be made by the Secretary^d in the Register of Shareholders^e: and for every such Certificate so given or exchanged, the Company may demand any Sum not exceeding the prescribed Amount, or if no Amount be prescribed, then a Sum not exceeding Two Shillings and Sixpence.

^a Form of Share Certificate, Schedule A, p. 117; and see note ^b on § 6, (p. 62.)

^b Share Certificate, under § 11.

^c See § 14 *et seq.*, as to transfer of shares.

^d See note ^e, on § 10, (p. 63.)

^e § 9.

And *with respect to the Transfer or Transmission of Shares*^a, be it enacted as follows: *Transfer of Shares.*

14. Subject to the Regulations herein or in the special Act contained, every Shareholder may sell and transfer all or any of his Shares in the Undertaking, or all or any Part of his Interest in the Capital Stock of the Company, in case such Shares shall, under the Provisions herein-after contained^a, be consolidated into Capital Stock; and every such Transfer shall be by Deed *Shareholders may Transfer Shares or Stock;* duly stamped^b, in which the Consideration shall be truly *by Deed stating consideration and stamped;* stated; and such Deed may be according to the Form *Form B.* in the Schedule (B.) to this Act annexed^c, or to the like Effect.

15. The said Deed of Transfer (when duly executed) shall be delivered to the Secretary^d, and be kept by him; and the Secretary^d shall enter a Memorial thereof in a Book to be called the "Register of Transfers^e," and shall endorse such Entry on the Deed of Transfer, and shall, on Demand, deliver a new Certificate to the Purchaser^f; and for every such Entry, together with such Endorsement and Certificate, the Company may *Transfers of Shares to be delivered to Officer, and kept and registered, &c.* demand any Sum not exceeding the prescribed Amount, *Fee, 2s. 6d.* or if no Amount be prescribed, then a Sum not exceeding Two Shillings and Sixpence: and on the Request of the Purchaser of any Share an Endorsement of such Transfer shall be made on the Certificate of such Share, instead of a new Certificate being granted^g; and such Endorsement being signed by the Secretary^d, shall be considered in every respect the same as a new Certi-

^a As to conversion of paid up shares into Stock, and Transfer thereof, see § 61, 62 *et seq.*

^b For scale of stamp duties under act regulating stamps on transfers of shares, see Introduction.

^c Form of Deed of Transfer of Shares or Stock, Schedule B, p. 117.

^d Or Clerk; § 3. See note ^c on § 10, in p. 63.

^e For a Form for "Register of Transfers," see Appendix.

^f For a form of certificate of Registry of a transfer, where a new share certificate (§ 11) is not issued, see Appendix.

Until Transfer Deed delivered to Company Vendor to be considered as Owner of the Shares.

ficate: and until such Transfer has been so delivered to the Secretary^a as aforesaid, the Vendor of the Share shall continue liable to the Company for any Calls that may be made upon such Share, and the Purchaser of the Share, shall not be entitled to receive any Share of the Profits of the Undertaking, or to vote^b in respect of such Share.

Transfer not to be made while Calls are due.

16. No Shareholder shall be entitled to transfer a Share, after any Call shall have been made in respect thereof, until he shall have paid such Call, nor until he shall have paid all Calls for the Time being due on the Share held by him.

Transfer Books may be closed before ordinary meetings;

17. It shall be lawful for the Directors to close the Register of Transfers for the prescribed Period, or for a Period be prescribed, then for a Period not exceeding Fourteen Days previous to each Ordinary Meeting, and they may fix a Day for the closing of the Register, which Seven Days Notice shall be given by Advertisement in some Newspaper as after mentioned^c: and any Transfer made during the Time when the Transfer Books are so closed shall, as between the Company and the Party claiming under the same, but not otherwise, be considered as made subsequently to such Ordinary Meeting.

and notice to be given.

Transmission of Shares otherwise than by Transfer, to be authenticated by a Declaration

18. If the Interest in any Share have become transmissible in consequence of the Death or Bankruptcy or Insolvency of any Shareholder, or in consequence of the Marriage of a Female Shareholder, or by any other lawful Means than by a Transfer according to the

^a Or Clerk; § 3. See note ^e on § 10, in p. 63.

^b As to right of voting at general meetings of Shareholders, see § 71.

^c Under § 66, the ordinary meetings are to be held half-yearly, in May and August, unless other periods be prescribed by the special Act of the Company: and under § 71, fourteen days' notice of the same, at least, is to be given. Under the present section, the Transfer Books are to be closed for a short time before the ordinary meetings; and seven days notice of such closing is to be given. Twenty-one days notice, at least, must therefore be given of the ordinary meeting.

^d See § 71; and § 138, as to newspaper in which notice is to be given. (VI. 71, 138.)

is^a or the special Act, such Transmission authenticated by a Declaration in Writing as mentioned, or in such other Manner as the Court may require; and every such Declaration shall be in the Manner in which, and the Party to whom, shall have been so transmitted, and shall be signed by some credible Person before a Justice of the Peace or a Master or Master Extraordinary of the Court of Chancery; and such Declaration shall be signed by the Secretary^b, and thereupon he^b shall enter the Name of the Person entitled under such Transmission in the Register of Shareholders^c; and for every such Transmission the Company may demand any Sum not exceeding the prescribed Amount, and where no Amount shall be prescribed then not exceeding Five Shillings; and until a Declaration has been so authenticated, no Transmission by virtue of any such Transmission shall be entitled to receive any Share of the Profits of the Company, nor to vote in respect of any such Share as a Holder thereof.

before a
Magistrate,
&c. ;

Declaration
to be left
with the
Company for
registry.

Fee, 5s.

Until so
authenti-
cated, trans-
mission not
to give right
to profits or
votes.

When a Transmission be by virtue of the Marriage of a Shareholder, the said Declaration shall contain a statement of the Register of such Marriage, or other evidence of the Celebration thereof, and shall declare that the Transmission of the Share to the Wife with the Holder of such Share; or that the Transmission have taken place by virtue of a Testamentary Instrument, or by Intestacy, the Probate of a Will or the Letters of Administration, or an Act therefrom, shall, together with such Declaration, be produced to the Secretary^b; and upon production in either of the Cases aforesaid, the Court shall make an Entry of the Declaration in the Register of Transfers^d.

Proof of
Transmission
of Shares by
Marriage,
Will, &c.

The Company shall not be bound to see to the execution of any Trust, whether express, implied or

Trustees:
Company not
bound to

regard
Trusts:
Receipt of a
Party regis-
tered suf-
ficient.

constructive, to which any of the said Shares may be subject; and the Receipt of the Party in whose Name any such Share shall stand in the Books of the Company, or if it stands in the Names of more Parties than One, the Receipt of One of the Parties named in the Register of Shareholders, shall from Time to Time be a sufficient Discharge to the Company for any Dividend or other Sum of Money payable in respect of such Share, notwithstanding any Trusts to which such Share may then be subject, and whether or not the Company have had Notice of such Trusts; and the Company shall not be bound to see to the Application of the Money paid upon such Receipt.

*Payment of
Calls.*

And with respect to the Payment of Subscriptions and the Means of enforcing the Payment of Calls, be it enacted as follows:

Subscrip-
tions or Calls
to be paid
when called
for by the
Company.

21. The several Persons who have subscribed any Money towards the Undertaking, or their legal Representatives, respectively, shall pay the Sums respectively so subscribed, or such Portions thereof as shall from Time to Time be called for by the Company, at such Times and Places as shall be appointed by the Company; and with respect to the Provisions herein or in the special Act contained for enforcing the Payment of Calls, the Word "Shareholder" shall extend to and include the legal personal Representatives of such Shareholder.

Power to
Company to
make Calls.

22. It shall be lawful for the Company from Time to Time to make such Calls of Money upon the respective Shareholders, in respect of the Amount of Capital respectively subscribed or owing by them, as they shall think fit; provided that Twenty-one Days Notice at the least be given of each Call, and that no Call exceed the prescribed Amount, if any, and that successive Calls be

21 days
Notice;
Limitations.

* Definition of "Shareholder" for other purposes, in § 3, (p. 61).

not made at less than the prescribed Interval, if any, and that the aggregate Amount of Calls made in any One Year do not exceed the prescribed Amount, if any: and every Shareholder shall be liable to pay the Amount of the Calls so made, in respect of the Shares held by him, to the Persons and at the Times and Places from Time to Time appointed by the Company.

23. If, before or on the Day appointed for Payment, any Shareholder do not pay the Amount of any Call to which he is liable, then such Shareholder shall be liable to pay Interest for the same at the Rate allowed by Law from the Day appointed for the Payment thereof to the Time of the actual Payment.

Interest to be paid to Company on Calls in arrear or overdue.

24. It shall be lawful for the Company, if they think fit, to receive from any of the Shareholders willing to advance the same, all or any Part of the Monies due upon their respective Shares beyond the Sums actually called for; and upon the Principal Monies so paid in advance, or so much thereof as from Time to Time shall exceed the Amount of the Calls then made upon the Shares in respect of which such Advance shall be made, the Company may pay Interest at such Rate, not exceeding the legal Rate of Interest for the Time being, as the Shareholder paying such Sum in advance and the Company shall agree upon.

Interest may be allowed by Company on Payments in advance of Calls.

25. If at the Time appointed by the Company for the Payment of any Call, any Shareholder fail to pay the Amount of such Call, it shall be lawful for the Company to sue such Shareholder for the Amount thereof, in any Court of Law or Equity having competent Jurisdiction, and to recover the same, with lawful Interest, from the Day on which such Call was payable^a.

Enforcement of Calls, with Interest, by Action or Suit.

26. In any Action or Suit to be brought by the Company against any Shareholder to recover any Money due for any Call, it shall not be necessary to set forth the special Matter, but it shall be sufficient for the Com-

Form of Declaration in Action or Suit for Calls.

^a And shares may be forfeited, whether the Company have so sued or not; see § 29 *et seq.*

pany to declare that the Defendant^a is the Holder of One Share or more in the Company (stating the Number of Shares), and is indebted to the Company in the sum of Money to which the Calls in arrear shall amount in respect of One Call or more upon One Share or more (stating the Number and Amount of each of such Calls) whereby an Action hath accrued to the Company in virtue of this and the special Act.

Matters
required to
be proved in
Action for
Calls.

27. On the Trial or Hearing of such Action or Hearing it shall be sufficient to prove that the Defendant^a at the Time of making such Call was a Holder of One Share or more in the Undertaking, and that such Call was lawfully made, and such Notice thereof given as is directed by this^b or the special Act; and it shall not be necessary to prove the Appointment of the Directors who made such Call, nor any other Matter whatsoever; and the Company shall be entitled to recover the sum which shall be due upon such Call, with Interest thereon unless it shall appear either that^b any such Call exceeds the prescribed Amount, or that due Notice of such Call was not given, or that the prescribed Interval between Two successive Calls had not elapsed, or that the total Amount of Calls in One Year had been exceeded within that Period^b.

Register.
Proof of
Proprietor-
ship.

28. The Production of the Register of Shareholders shall be *prima facie* Evidence of such Defendant being a Shareholder, and of the Number and Amount of Shares.

Nonpay-
ment of
Calls.

And with respect to the Forfeiture of Shares on Non-payment of Calls, be it enacted as follows:

Forfeiture of
Shares for
Nonpayment
of Calls for
3 months.

29. If any Shareholder fail to pay any Call payable by him, together with the Interest, if any, that

^a Defendant: "Defender," in Scotch Act, referred to in section 116. note on that section, p. 116.

^b § 23.

have accrued thereon, the Directors, at any Time after the Expiration of Two Months from the Day appointed for Payment of such Call, may declare the Share in respect of which such Call was payable forfeited, and that whether the Company have sued^a for the Amount of such Call or not.

30. Before declaring any Share forfeited, the Directors shall cause Notice of such Intention to be left at or transmitted by the Post to the usual or last Place of Abode of the Person appearing by the Register of Shareholders^b to be the Proprietor of such Share; and if the Holder of any such Share be abroad, or if his usual or last Place of Abode be not known to the Directors, by reason of its being imperfectly described in the Shareholders' Address Book^b, or otherwise, or if the Interest in any such Share shall be known by the Directors to have become transmitted otherwise than by Transfer, as herein-before mentioned^c, but a Declaration of such Transmission shall not have been registered as aforesaid, and so the Address of the Parties to whom the same may have been transmitted, or may for the Time being belong, shall not be known to the Directors, the Directors shall give public Notice of such Intention in the *[London or Dublin Gazette, according as the Company's principal Place of Business shall be situate in England or Ireland^d]*, and also in some Newspaper, as after mentioned^e; and the several Notices aforesaid shall be given Twenty-one Days at least before the Directors shall make such Declaration of Forfeiture.

31. The said Declaration of Forfeiture shall not take effect so as to authorize the Sale or other Disposition of any Share, until such Declaration have been confirmed

Notice to be
given before
Forfeiture;

in Gazette,
21 days
before decla-
ration of For-
feiture.

Forfeiture by
Directors not
to take effect
till confir-
med by a

^a § 25.

^b § 9, 10.

^c § 18, 19.

^d Instead of the words here printed in [brackets], the words "the Edinburgh Gazette" are substituted in the Scotch Act referred to in § 164: see note on that section, in p. 116.

General Meeting;

Time and Notice thereof.

Sale of forfeited Shares.

Evidence as to Forfeiture;

and as to title to Shares sold:

Certificate of Proprietorship to purchaser.

No more Shares of defaulting

at some General Meeting of the Company^a, to be held after the Expiration of Two Months at the least from the Day on which such Notice of Intention to make such Declaration of Forfeiture shall have been given; and it shall be lawful for the Company to confirm such Forfeiture at any such Meeting, and by an Order at such Meeting, or at any subsequent General Meeting, to direct the Share so forfeited to be sold or otherwise disposed of.

32. After such Confirmation as aforesaid, it shall be lawful for the Directors to sell the forfeited Share, either by public Auction or private Contract; and if there be more than One such forfeited Share, then either separately or together, as to them shall seem fit; and any Shareholder may purchase any forfeited Share so sold.

33. A Declaration in Writing, by some credible Person not interested in the Matter, made before any Justice, or before any Master or Master Extraordinary of the High Court of Chancery, that the Call in respect of a Share was made, and Notice thereof given, and that Default in Payment of the Call was made, and that the Forfeiture of the Share was declared and confirmed in manner herein-before required^b, shall be sufficient Evidence of the Facts therein stated; and such Declaration, and the Receipt of the Treasurer of the Company for the Price of such Share, shall constitute a good Title to such Share; and a Certificate of Proprietorship shall be delivered to such Purchaser, and thereupon he shall be deemed the Holder of such Share, discharged from all Calls due prior to such Purchase: and he shall not be bound to see to the Application of the Purchase Money, nor shall his Title to such Share be affected by any Irregularity in the Proceedings in reference to such Sale.

34. The Company shall not sell or transfer more of the Shares of any such Defaulter than will be sufficient,

^a § 66 *et seq.*, as to General Meetings.

^b § 29-31.

as nearly as can be ascertained at the Time of such Sale, to pay the Arrears then due from such Defaulter on account of any Calls, together with Interest, and the Expenses attending such Sale and Declaration of Forfeiture; and if the Money produced by the Sale of any such forfeited Shares be more than sufficient to pay all Arrears of Calls and Interest thereon due at the Time of such Sale, and the Expenses attending the Declaration of Forfeiture and Sale thereof, the Surplus shall, on Demand, be paid to the Defaulter.

Shareholder to be sold, than sufficient for Payment of Calls, with Interest and Expenses: Surplus, if any, to be paid over to him.

35. If Payment of such Arrears of Calls and Interest and Expenses be made before any Share so forfeited and vested in the Company shall have been sold, such Share shall revert to the Party to whom the same belonged before such Forfeiture, in such Manner as if such Calls had been duly paid.

But if the Calls be paid, before Sale of the forfeited Shares, they are to revert.

And *with respect to the Remedies of Creditors of the Company against the Shareholders*, be it enacted as follows:

Remedies of Creditors against Shareholders.

36. If any Execution, either at Law or in Equity, shall have been issued against the Property or Effects of the Company, and if there cannot be found sufficient whereon to levy such Execution, then such Execution may be issued against any of the Shareholders, to the Extent of their Shares respectively in the Capital of the Company not then paid up: Provided always, that no such Execution shall issue against any Shareholder except upon an Order of the Court in which the Action, Suit, or other Proceeding shall have been brought or instituted, made upon Motion in open Court after sufficient Notice in Writing to the Persons sought to be charged; and upon such Motion such Court may order Execution to issue accordingly; and for the Purpose of ascertaining the Names of the Shareholders, and the Amount of Capital remaining to be paid upon their respective Shares, it shall be lawful for any Person

Execution against Shareholders to the Extent of their Shares in Capital not paid up:

Provisos.

Register to be open to Execution Creditors.

entitled to any such Execution, at all reasonable Times, to inspect the Register of Shareholders, without Fee.

Reimbursement of such Shareholders, for amount of Execution beyond Sum due from them.

37. If by means of any such Execution, any Shareholder shall have paid any Sum of Money beyond the Amount then due from him in respect of Calls, he shall forthwith be reimbursed such additional Sum by the Directors out of the Funds of the Company.

Borrowing Powers.

And with respect to the *Borrowing of Money by the Company on Mortgage or Bond*, be it enacted as follows:

Company may borrow Money, on Mortgage or Bond, under limitations.

38. If the Company be authorized by the special Act to borrow Money on Mortgage or Bond, it shall be lawful for them, subject to the Restrictions contained in the special Act, to borrow on Mortgage or Bond such Sums of Money as shall from Time to Time, by an Order of a General Meeting of the Company, be authorized to be borrowed, not exceeding in the whole the Sum prescribed by the special Act; and for securing the Repayment of the Money so borrowed, with Interest, to mortgage the Undertaking and the future Calls on the Shareholders, or to give Bonds in manner herein-after mentioned^a.

Power to re-borrow, after paying original loan.

39. If, after having borrowed any Part of the Money so authorized to be borrowed on Mortgage or Bond, the Company pay off the same, it shall be lawful for them again to borrow the Amount so paid off, and so from Time to Time; but such Power of re-borrowing shall not be exercised without the Authority of a General Meeting of the Company, unless the Money be so re-borrowed in order to pay off any existing Mortgage or Bond.

Evidence of Capital being paid up or of Authority to borrow.

40. Where by the special Act the Company shall be restricted from borrowing any Money on Mortgage or Bond until a definite Portion of their Capital shall be subscribed or paid up, or where by this^b or the special Act the Authority of a General Meeting is required for such borrowing, the Certificate of a Justice that such

^a § 41 et seq.

^b § 38, 39.

on of the Capital has been subscribed or
 Copy of the Order of a General Meeting
 y authorizing the borrowing of any Money,
 ne of the Directors or by the Secretary to
 r, shall be sufficient Evidence of the Fact
 l required to be subscribed or paid up
 o subscribed or paid up, and of the Order
 Money having been made; and upon Pro-
 Justice, of the Books of the Company,
 her Evidence as he shall think sufficient,
 all grant the Certificate aforesaid.

Mortgage and Bond for securing Money
 he Company shall be by Deed under the
 l of the Company, duly stamped, and
 Consideration shall be truly stated; and
 Mortgage Deed or Bond may be according
 the Schedule (C.)^a or (D.)^b to this Act
 the like Effect.

Form of
 Mortgages
 and Bonds:
 Considera-
 tion and
 Stamp.

pective Mortgagees shall be entitled one
 o their respective Proportions of the Tolls,
 omises comprised in such Mortgages, and
 alls payable by the Shareholders, if com-
 according to the respective Sums in such
 ntioned to be advanced by such Mortga-
 ly; and to be repaid the Sums so advanced,
 without any Preference one above another
 riority of the Date of any such Mortgage,
 ing at which the same was authorized.

Rights of
 Mortgagees,
 in proportion
 to amounts
 of Bonds,
 without re-
 gard to
 priority.

Mortgage (although it should comprise
 the Shareholders) shall, unless expressly
 reclude the Company from receiving and
 e Purposes of the Company any Calls to
 e Company.

Calls;
 Application
 of, notwith-
 standing
 Mortgages.

pective Obligees in such Bonds shall, pro-
 cording to the Amount of the Monies

Rights of
 Obligees
 under Bonds,
 without pre-
 ference for
 priority.

secured thereby, be entitled to be paid, out of the Tolls or other Property or Effects of the Company, the respective Sums in such Bonds mentioned, and thereby intended to be secured, without any Preference one above another by reason of Priority of Date of any such Bond, or of the Meeting at which the same was authorized, or otherwise howsoever.

Register of
Mortgages
and Bonds
to be kept;

and to be
open to
inspection.

Transfers of
Mortgages
and Bonds;
considera-
tion, and
stamp.

Transfers of
Mortgages
and Bonds to
be produced
to Company,
for registry;

45. A Register of Mortgages and Bonds shall be kept by the Secretary^a, and within Fourteen Days after the Date of any such Mortgage or Bond, an Entry or Memorial, specifying the Number and Date of such Mortgage or Bond, and the Sums secured thereby, and the Names of the Parties thereto, with their proper Additions, shall be made in such Register; and such Register may be perused at all reasonable Times by any of the Shareholders, or by any Mortgagee or Bond Creditor of the Company, or by any Person interested in any such Mortgage or Bond, without Fee or Reward.

46. Any Party entitled to any such Mortgage or Bond may from Time to Time transfer his Right and Interest therein to any other Person; and every such Transfer shall be by Deed duly stamped, wherein the Consideration shall be truly stated; and every such Transfer may be according to the Form in the Schedule (E.) to this Act annexed^b, or to the like Effect.

47. Within Thirty Days after the Date of every such Transfer, if executed within the United Kingdom, or otherwise within Thirty Days after the Arrival thereof in the United Kingdom, it shall be produced to the Secretary^a, and thereupon the Secretary shall cause an Entry or Memorial thereof to be made in the same Manner as in the Case of the original Mortgage; and after such Entry, every such Transfer shall entitle the Transferee to the full Benefit of the original Mortgage or Bond in all respects; and no Party, having made

^a Or Clerk; § 3: see note ^c in p. 63.

^b Form of Transfer of Mortgage or Bond, Schedule E, p. 118.

such Transfer, shall have Power to make void, release, or discharge the Mortgage or Bond so transferred, or any Money thereby secured; and for such Entry the Company may demand a Sum not exceeding the prescribed Sum, or where no Sum shall be prescribed, the Sum of Two Shillings and Sixpence; and until such Entry the Company shall not be in any Manner responsible to the Transferee in respect of such Mortgage.

Fca.

Until registry, Company not responsible to Transferee.

48. The Interest of the Money borrowed upon any such Mortgage or Bond shall be paid at the Periods appointed in such Mortgage or Bond,—and if no Period be appointed, half-yearly,—to the several Parties entitled thereto, and in preference to any Dividends payable to the Shareholders of the Company.

Interest on Monies borrowed; periods of payment, and in preference to dividends.

49. The Interest on any such Mortgage or Bond shall not be transferable, except by Deed duly stamped.

Transfers of Interest to be stamped.

50. The Company may, if they think proper, fix a Period for the Repayment of the Principal Money so borrowed, with the Interest thereof; and in such Case the Company shall cause such Period to be inserted in the Mortgage Deed or Bond; and upon the Expiration of such Period, the Principal Sum, together with the Arrears of Interest thereon, shall, on Demand, be paid to the Party entitled to such Mortgage or Bond; and if no other Place of Payment be inserted in such Mortgage Deed or Bond, such Principal and Interest shall be payable at the principal Office or Place of Business of the Company.

Repayment of Money borrowed;

Time:

Place.

51. If no Time be fixed in the Mortgage Deed or Bond for the Repayment of the Money so borrowed, the Party entitled to the Mortgage or Bond may, at the Expiration, or at any Time after the Expiration, of Twelve Months from the Date of such Mortgage or Bond, demand Payment of the Principal Money thereby secured, with all Arrears of Interest, upon giving Six Months previous Notice for that Purpose; and in the like Case, the Company may at any Time pay off the Money borrowed, on giving the like Notice; and every

Repayment of Money borrowed where no Time fixed:

on Six Months' Notice by either party.

Service of
Notice.

such Notice shall be in Writing or Print, or be if given by a Mortgagee or Bond Creditor shall be delivered to the Secretary or left at the principal Office of the Company, and if given by the Company shall be given either personally to such Mortgagee or Bond Creditor, or left at his Residence, or if such Mortgagee or Bond Creditor be unknown to the Directors, and cannot be found after diligent Inquiry, such Notice shall be given by Advertisement in the *London and Westminster Gazette*, according as the principal Office of the Company shall be in *England or Ireland*, and in some other paper as after mentioned*.

Interest to
cease on Ex-
piration of
Notice to pay
off Mortgage
or Bond.

52. If the Company shall have given Notice of Intention to pay off any such Mortgage or Bond, the Time when the same may lawfully be paid off by the Company shall then at the Expiration of such Notice all further Interest shall cease to be payable on such Mortgage or Bond, unless, on Demand of Payment made pursuant to such Notice, or at any Time thereafter, the Company shall fail to pay the Principal and Interest due, at the Expiration of such Notice, on such Mortgage or Bond.

Arrears of
Interest
when to be
recovered by
Appoint-
ment of a
Receiver.

53. Where, by the special Act, the Mortgagee of the Company shall be empowered to enforce the Payment of the Arrears of Interest, or the Arrears of Principal and Interest, due on such Mortgages, by the Appointment of a Receiver, then if within Thirty Days after the Interest accruing upon any such Mortgage shall become payable, and after Demand thereof in Writing the same be not paid, the Mortgagee may, with the leave of the Court, exercise his Right to sue for the Interest so due in any of the Superior Courts of Law or Equity, or in the Court of Chancery, after the Appointment of a Receiver, by an Application made as herein-after provided*; and if within Six Months after the Principal Money owing upon any such Mortgage has become payable, and after Demand thereof in Writing, the same be not paid, the Mortgagee

Arrears of
Principal
and Interest.

Prejudice to his Right to sue for such Principal Money, together with all Arrears of Interest, in any of the Superior Courts of Law or Equity, may, if his Debt amount to the prescribed Sum alone,—or if his Debt does not amount to the prescribed Sum, he may, in conjunction with other Mortgagees whose Debts, being so in arrear, after Demand as aforesaid, shall, together with his, amount to the prescribed Sum,—require the Appointment of a Receiver, by an Application to be made as herein-after provided^a.

54. Every Application for a Receiver in the Cases aforesaid^b shall be made to two Justices; and on any such Application, it shall be lawful for such Justices, by Order in Writing, after hearing the Parties, to appoint some Person to receive the whole or a competent Part of the Tolls or Sums liable to the Payment of such Interest, or such Principal and Interest, as the Case may be, until such Interest, or until such Principal and Interest, as the Case may be, together with all Costs, including the Charges of receiving the Tolls or Sums aforesaid, be fully paid; and upon such Appointment being made, all such Tolls and Sums of Money as aforesaid shall be paid to and received by the Person so to be appointed; and the Money so to be received shall be so much Money received by or to the Use of the Party to whom such Interest, or such Principal and Interest, as the Case may be, shall be then due, and on whose Behalf such Receiver shall have been appointed; and after such Interest and Costs, or such Principal, Interest, and Costs, have been so received, the Power of such Receiver shall cease.

Appoint-
ment of
Receiver, by
two Justices.

55. At all seasonable Times, the Books of Account of the Company shall be open to the Inspection of the respective Mortgagees and Bond Creditors thereof, with Liberty to take Extracts therefrom, without Fee or Reward.

Accounts of
Company to
be open to
inspection by
Mortgagees,
&c.

Conversion of Loans into Capital. And *with respect to the Conversion of the borrowed Money into Capital*, be it enacted as follows:

New Shares may be created in lieu of Loan: 56. It shall be lawful for the Company, if they think fit, unless it be otherwise provided by the special Act, to raise the additional Sum so authorized to be borrowed, or any Part thereof, by creating new Shares of the Company, instead of borrowing the same,—or, having borrowed the same, to continue at Interest only a Part of such additional Sum, and to raise Part thereof by creating new Shares; but no such Augmentation of Capital as aforesaid shall take place without the previous Authority of a General Meeting of the Company.

with authority of General Meeting. 57. The Capital so to be raised by the Creation of new Shares shall be considered as Part of the general Capital, and shall be subject to the same Provisions in all respects, whether with reference to the Payment of Calls^a, or the Forfeiture of Shares on Nonpayment of Calls^b, or otherwise, as if it had been Part of the original Capital, except as to the Times of making Calls for such additional Capital, and the Amount of such Calls, which respectively it shall be lawful for the Company from Time to Time to fix as they shall think fit.

except as to time and amount of Calls. 58. If, at the Time of any such Augmentation of Capital taking place by the Creation of new Shares, the then existing Shares be at a Premium, or of greater actual Value than the nominal Value thereof, then, unless it be otherwise provided by the special Act, the Sum so to be raised shall be divided into Shares of such Amount as will conveniently allow the same to be apportioned among the then Shareholders in Proportion to the existing Shares held by them respectively; and such new Shares shall be offered to the then Shareholders in the Proportion aforesaid; and such Offer shall be made by Letter under the Hand of the Secretary given to, or sent by Post addressed to, each Shareholder according

If old Shares at Premium, new Shares to be offered proportionally to the Shareholders.

Mode of offering shares.

^a Payment of calls, § 21 *et seq.*

^b Forfeiture of shares, § 29 *et seq.*

to his Address in the Shareholders Address Book^a, or left at his usual or last Place of Abode.

59. The said new Shares shall vest in and belong to the Shareholders who shall accept the same and pay the Value thereof to the Company at the Time and by the Instalments which shall be fixed by the Company; and if any Shareholder fail, for One Month after such Offer, of new Shares to accept the same and pay the Instalments called for in respect thereof, it shall be lawful for the Company to dispose of such Shares in such Manner as they shall deem most for the Advantage of the Company.

On payment, Shares to vest in the Parties accepting; otherwise, may be disposed of by the Company.

60. If, at the time of such Augmentation of Capital taking place, the existing Shares be not at a Premium, then such new Shares may be of such Amount, and may be issued in such Manner and on such Terms, as the Company shall think fit.

If old Shares not at Premium, new Shares to be issued as Company think fit.

And with respect to the Consolidation of the Shares into Stock, be it enacted as follows:

Consolidation of Shares into Stock.

61. It shall be lawful for the Company from Time to Time, with the Consent of Three Fifths of the Votes of the Shareholders present in Person or by Proxy at any General Meeting of the Company, when due Notice for that Purpose shall have been given, to convert or consolidate all or any Part of the Shares then existing in the Capital of the Company, and in respect whereof the whole Money subscribed shall have been paid up, into a General Capital Stock, to be divided amongst the Shareholders according to their respective Interests therein.

Paid up Shares may be consolidated into Stock; with Consent of 3-5ths of General Meeting.

62. After such Conversion or Consolidation shall have taken place, all the Provisions contained in this^b or the special Act which require or imply that the Capital of

Stock may be transferred in same manner as Shares;

^a § 10.

^b § 6, (p. 62.)

the Company shall be divided into Shares of any fixed Amount, and distinguished by Numbers^a, shall, as to so much of the Capital as shall have been so converted or consolidated into Stock, cease and be of no Effect; and the several Holders of such Stock may thenceforth transfer their respective Interests therein, or any Parts of such Interests, in the same Manner and subject to the same Regulations and Provisions as or according to which any Shares in the Capital of the Company might be transferred under the Provisions of this or the special Act^b; and the Company shall cause an Entry to be made, in some Book to be kept for that Purpose, of every such Transfer; and for every such Entry they may demand any Sum not exceeding the prescribed Amount, or if no Amount be prescribed a Sum not exceeding Two Shillings and Sixpence.

and Trans-
fers to be
registered.

Fee, 2s. 6d.

Register of
Stockholders
to be kept:

and open to
inspection.

Proprietors
of Stock
entitled to
Dividends,
Votes, &c.

63. The Company shall from Time to Time cause the Names of the several Parties who may be interested in any such Stock as aforesaid, with the Amount of the Interest therein possessed by them respectively, to be entered in a Book to be kept for the Purpose, and to be called "The Register of Holders of Consolidated Stock;" and such Book shall be accessible at all seasonable Times to the several Holders of Shares or Stock in the Undertaking.

64. The several Holders of such Stock shall be entitled to participate in the Dividends and Profits of the Company, according to the Amount of their respective Interests in such Stock; and such Interests shall, in proportion to the Amount thereof, confer on the Holders thereof respectively the same Privileges and Advantages, for the Purpose of voting^c at Meetings of the Company, Qualification for the Office of Directors^d, and for other

^a § 6 (p. 62).

^b Provisions with respect to the Transfer of Shares, § 14 *et seq.*—Form of Transfer Deed for Stock or Shares, Schedule B, p. 117.

^c § 75 *et seq.*

^d § 85, (p. 89.)

Purposes, as would have been conferred by Shares of equal Amount in the Capital of the Company; but so that none of such Privileges or Advantages, except the Participation in the Dividends and Profits of the Company, shall be conferred by any aliquot Part of such Amount of Consolidated Stock as would not, if existing in Shares, have conferred such Privileges or Advantages respectively.

65. *And be it enacted, That* all the Money raised by the Company, whether by Subscriptions of the Shareholders, or by Loan or otherwise, shall be applied, firstly, in paying the Costs and Expenses incurred in obtaining the special Act, and all Expenses incident thereto, and, secondly, in carrying the Purposes of the Company into execution.

Application of Capital.
Costs of special Act; general purposes of the Company.

And with respect to the General Meetings of the Company, and the Exercise of the Right of Voting by the Shareholders, be it enacted as follows:

General Meetings.

66. The First General Meeting of the Shareholders of the Company shall be held within the prescribed Time, or if no Time be prescribed, within One Month after the passing of the special Act^a; and the future General Meetings shall be held at the prescribed Periods, and if no Periods be prescribed, in the Months of *February* and *August* in each Year, or at such other stated Periods as shall be appointed for that Purpose by an Order of a General Meeting; and the Meetings so appointed to be held as aforesaid shall be called "Ordinary Meetings;" and all Meetings, whether ordinary or extraordinary^b, shall be held in the prescribed Place, if any, and if no Place be prescribed, then at some Place to be appointed by the Directors.

Ordinary Meetings:
First General Meeting; subsequent Meetings, Half-yearly, in Feb. and Aug.

Place of Meeting.

^a For quorum required to constitute a General Meeting, see § 72.

^b Extraordinary General Meetings; see § 68.

Business at
Ordinary
Meetings.

67. No Matters, except such as are appointed by this or the special Act to be done at an Ordinary Meeting^a, shall be transacted at any such Meeting, unless special Notice of such Matters have been given in the Advertisement convening such Meeting.

Extraordi-
nary Meet-
ings:
may be con-
vened by
Directors.

68. Every General Meeting of the Shareholders, other than an Ordinary Meeting, shall be called an "Extraordinary Meeting^b;" and such Meetings may be convened by the Directors at such Times as they think fit.

Business at
Extraordi-
nary Meet-
ings.

69. No Extraordinary Meeting shall enter upon any Business not set forth in the Notice upon which it shall have been convened.

Extraordi-
nary Meet-
ings may be
required by
certain pro-
portion of
Share-
holders:

70. It shall be lawful for the prescribed Number of Shareholders, holding in the aggregate Shares to the prescribed Amount, or, where the Number of Shareholders or Amount of Shares shall not be prescribed, it shall be lawful for Twenty or more Shareholders holding in the aggregate not less than One Tenth of the Capital of the Company, by Writing under their Hands, at any Time to require the Directors to call an Extraordinary Meeting of the Company; and such Requisition shall fully express the Object of the Meeting required to be called, and shall be left at the Office of the Company, or given to at least Three Directors, or left at their last or usual Places of Abode: and forthwith, upon the Receipt of such Requisition, the Directors shall convene a Meeting of the Shareholders^c; and if for Twenty-one Days after such Notice^d the Directors fail to call such Meeting, the prescribed Number or such other Number, as aforesaid, of Shareholders qualified as aforesaid, may call such Meeting, by giving Fourteen Days public Notice thereof.

and to be
convened by
Directors;
or on failure
of Directors,
by said
Share-
holders.

^a Matters appointed by this act to be done at an Ordinary Meeting:—Sealing the Register of Shareholders, § 9; Election of Directors, § 83; of Auditors, § 101; and see § 91.

^b For quorum required to constitute a General Meeting, see § 72.

^c § 71, as to notice of all meetings.

^d i.e. Requisition, or Writing requiring the Directors to call extraordinary meeting.

71. Fourteen Days public Notice at the least^a of all Meetings, whether ordinary or extraordinary, shall be given by Advertisement^b, which shall specify the Place, the Day, and the Hour of Meeting; and every Notice of an Extraordinary Meeting, or of an Ordinary Meeting, if any other Business than the Business hereby or by the special Act appointed for Ordinary Meetings^c is to be done thereat, shall specify the Purpose for which the Meeting is called.

Notice of
General
Meetings.

72. In order to constitute a Meeting (whether ordinary or extraordinary) there shall be present, either personally or by Proxy, the prescribed Quorum,—and if no Quorum be prescribed, then Shareholders holding in the aggregate not less than One Twentieth of the Capital of the Company, and being in Number not less than One for every Five Hundred Pounds of such required Proportion of Capital, unless such Number would be more than Twenty, in which Case Twenty Shareholders holding not less than One Twentieth of the Capital of the Company, shall be the Quorum; and if within One Hour from the Time appointed for such Meeting the said Quorum be not present, no Business shall be transacted at the Meeting, other than the declaring of a Dividend, in case that shall be one of the Objects of the Meeting, but such Meeting shall, except in the Case of a Meeting for the Election of Directors herein-after mentioned, be held to be adjourned *sine Die*^d.

Quorum for
a General
Meeting.

Business for
Meeting, in
case no Quo-
rum be pre-
sent.

73. At every Meeting of the Company, one or other of the following Persons shall preside as Chairman; that is to say, the Chairman of the Directors,—or in his Absence, the Deputy Chairman (if any),—or in the Absence of the Chairman and Deputy Chairman, some one

Chairman at
General
Meetings.

^a See note ^a on § 17, (p. 66.)

^b See § 138, as to Newspaper in which Notice is to be advertised (p. 107.)

^c See note ^a on § 67, (p. 84.)

^d § 83 *et seq.* Where the meeting is one at which the annual Election of Directors should take place, it is to be adjourned to the following day, if there be no quorum on the first day; § 84, (p. 89.)

of the Directors of the Company, to be chosen for that Purpose by the Meeting,—or in the Absence of the Chairman and Deputy Chairman and of all the Directors, any Shareholder to be chosen for that Purpose by a Majority of the Shareholders present at such Meeting.

Business at Meetings;

and Adjournments.

Scale of Votes of Shareholders.

Manner of voting : appointment of Proxies.

74. The Shareholders present at any such Meeting shall proceed in the Execution of the Powers of the Company with respect to the Matters for which such Meeting shall have been convened, and those only: and every such Meeting may be adjourned from Time to Time, and from Place to Place; and no Business shall be transacted at any adjourned Meeting other than the Business left unfinished at the Meeting from which such Adjournment took place.

75. At all General Meetings of the Company, every Shareholder shall be entitled to vote according to the prescribed Scale of Voting; and where no Scale shall be prescribed, every Shareholder shall have One Vote for every Share up to Ten, and he shall have an additional Vote for every Five Shares beyond the first Ten Shares held by him up to One Hundred, and an additional Vote for every Ten Shares held by him beyond the first Hundred Shares; provided always, that no Shareholder shall be entitled to vote at any Meeting unless he shall have paid all the Calls then due upon the Shares held by him^a.

76. The Votes may be given either personally or by Proxies, being Shareholders, authorized by Writing according to the Form in the Schedule (F.) to this Act annexed^b, or in a Form to the like Effect, under the Hand of the Shareholder nominating such Proxy, or if

^a And under § 15, in case of transfer of shares, the transferee is not entitled to vote until the transfer has been delivered to the Secretary of the Company (p. 66): under § 17, any transfer made while the transfer register is closed as provided in that section, is to be considered, in reference to Voting, &c., as made subsequently to the next ordinary meeting.

^b Form of appointment of proxy, Schedule F, p. 119. The appointment must be stamped; under the Stamp Act at present in force, a stamp of 6d. is required. The Proxy of a Shareholder, must himself also be a Shareholder.

such Shareholder be a Corporation, then under their Common Seal ; and every Proposition at any such Meeting shall be determined by the Majority^a of Votes of the Parties present, including Proxies ; the Chairman of the Meeting being entitled to vote, not only as a Principal and Proxy, but to have a casting Vote, if there be an Equality of Votes.

Majority
binding.

Casting vote.

77. No Person shall be entitled to vote as a Proxy unless the Instrument appointing such Proxy^b have been transmitted to the Secretary of the Company the prescribed Period, or, if no Period be prescribed, not less than Forty-eight Hours before the Time appointed for holding the Meeting at which such Proxy is to be used.

Proxies to
be transmit-
ted to Secre-
tary 48 hours
before Meet-
ing.

78. If several Persons be jointly entitled to a Share, the Person whose Name stands first in the Register of Shareholders^c as one of the Holders of such Share shall, for the Purpose of voting at any Meeting, be deemed the sole Proprietor thereof ; and on all Occasions, the Vote of such first-named Shareholder, either in Person or by Proxy, shall be allowed as the Vote in respect of such Share, without Proof of the Concurrence of the other Holders thereof.

Votes of joint
Sharehol-
ders ; to be
given by
first-named
holder.

79. If any Shareholder be a Lunatic or Idiot, such Lunatic or Idiot may vote by his Committee ; and if any Shareholder be a Minor, he may vote by his Guardian or any one of his Guardians ; and every such Vote may be given either in Person or by Proxy^b.

Votes of
Lunatics and
Minors, &c.

80. Whenever, in this or the special Act, the Consent of any particular Majority^d of Votes at any Meeting of the Company is required in order to authorize any Proceeding of the Company, such particular Majority shall only be required to be proved in the event of a Poll being demanded at such Meeting ; and if such Poll

Any particu-
lar Majority
of Votes, re-
quired to be
proved only
in the event
of a Poll ;

^a Except where a special proportion is required ; as under § 61, requiring consent of three-fifths, and other similar cases : and see § 80.

^b Form of Instrument appointing Proxy, Schedule F, (p. 119) : and the Proxy must himself be a Shareholder ; see § 76.

^c § 9, (p. 62).

^d As under § 61, &c.

be not demanded, then a Declaration by the Chairman that the Resolution authorizing such Proceeding has been carried, and an Entry to that Effect in the Book of Proceedings of the Company, shall be sufficient Authority for such Proceeding, without Proof of the Number or Proportion of Votes recorded in favour of or against the same.

but not the
number of
votes.

*Appoint-
ment and
Rotation of
Directors.*

Number of
Directors.]

Power to
vary the
Number of
Directors,
where au-
thorized by
special act;
Notice.

Rotation.

Quorum.

Term of
office of
Directors.

Annual
Election.

And *with respect to the Appointment and Rotation of Directors*, be it enacted as follows:

81. The Number of Directors shall be the prescribed Number^a.

82. Where the Company shall be authorized by the special Act to increase or to reduce the Number of the Directors, it shall be lawful for the Company, from Time to Time, in General Meeting, after due Notice^b for that Purpose, to increase or reduce the Number of the Directors within the prescribed Limits, if any, and to determine the Order of Rotation in which such reduced or increased Number shall go out of Office, and what Number shall be a Quorum at their Meetings^c.

83. The Directors appointed by the special Act shall, unless thereby otherwise provided, continue in Office until the first Ordinary Meeting to be held in the Year next after that in which the special Act shall have passed; and at such Meeting, the Shareholders present personally or by Proxy, may either continue in Office the Directors appointed by the special Act, or any Number of them, or may elect a new Body of Directors, or Directors to supply the Places of those not continued in Office, the Directors appointed by the special Act being eligible as Members of such new Body; and at the first Ordinary Meeting to be held every Year thereafter^d, the Shareholders present, personally or by Proxy,

^a i. e., prescribed in the special act of the Company; § 2 (p. 59).

^b Notice; § 67, 71.

^c i. e., Quorum at Meetings of Directors. Quorum for General Meetings of Company, § 72.

^d i. e., in February, if not otherwise fixed by special Act; § 66, (p. 83.)

shall elect Persons to supply the Places of the Directors when retiring from Office, agreeably to the Provisions herein-after contained^a; and the several Persons elected at any such Meeting, being neither removed nor disqualified^b, nor having resigned, shall continue to be Directors until others are elected in their Stead, as herein-after mentioned^c.

84. If at any Meeting at which an Election of Directors ought to take place, the prescribed Quorum shall not be present within One Hour from the Time appointed for the Meeting, no Election of Directors shall be made, but such Meeting shall stand adjourned to the following Day at the same Time and Place; and if at the Meeting so adjourned, the prescribed Quorum be not present within One Hour from the Time appointed for the Meeting, the existing Directors shall continue to act and retain their Powers until new Directors be appointed at the first Ordinary Meeting of the following Year^d.

Existing Directors continued on failure of Meeting for Election of Directors.

85. No Person shall be capable of being a Director unless he be a Shareholder, nor unless he be possessed of the prescribed Number, if any, of Shares^e; and no Person holding an Office or Place of Trust or Profit under the Company, or interested in any Contract with the Company, shall be capable of being a Director; and no Director shall be capable of accepting any other Office or Place of Trust or Profit under the Company, or of being interested in any Contract with the Company, during the Time he shall be a Director.

Qualification of Directors: to be a shareholder;

but not an officer or Contractor of the Company;

86. If any of the Directors, at any Time subsequently to his Election, accept or continue to hold any other Office or Place of Trust or Profit under the Company, or be either directly or indirectly concerned in any Contract with the Company, or participate in any Manner in the Profits of any Work to be done for the Company,

Directors to cease to be such, in certain cases.

^a § 88, as to Rotation of Directors.

^b Disqualifications; § 85-7, 89.

^c § 83, 88.

^d This section applies also to the election of auditors; see § 105, (p. 97.)

^e Or holder of Stock; see § 64, (p. 82.)

disqualified
by reason of
Contracts
with such
Company

Director by reason of any Contract entered into with such Joint Stock Company and the Company shall not be qualified to vote on any Question as to any Contract entered into by such Joint Stock Company.

Rotation of
Directors:

88. The Directors appointed by the special Act shall continue in Office as aforesaid, or the Directors shall supply the Places of those retiring as aforesaid, subject to the Provision herein-before contained relating to increasing or reducing the Number of Directors from Office at the Times and in the Proportions therein provided; the Individuals to retire being in each Year determined by Ballot among the Directors, unless they shall otherwise agree: that is to say,

At the End of the First Year after the First Meeting of Directors, the prescribed Number, or if no Number be prescribed, One Third of the Directors, to be determined by Ballot among the Directors, unless they shall otherwise agree, shall retire from Office:

At the End of the Second Year, the prescribed Number, —and if no Number be prescribed, One Third of the remaining Number of such Directors,

1 in each Instance, the Places of the retiring Directors shall be supplied by an equal Number of qualified reholders: and at the First Ordinary Meeting in every subsequent Year^a the prescribed Number, and if Number be prescribed, One Third of the Directors, being those who have been longest in Office, shall go out of Office, and their Places shall be supplied in like manner; nevertheless every Director so retiring from Office may be re-elected immediately or at any future time, and after such Re-election shall, with reference to going out by Rotation, be considered as a new Director.

Appoint-
ment at first
ordinary
meeting in
each year.

Outgoing
Directors re-
eligible.

Provided always, that if the prescribed Number of Directors be some Number not divisible by Three, and Number of Directors to retire be not prescribed, the Directors shall in each Case determine what Number of Directors, as nearly One Third as may be, shall go out of Office, so that the whole Number shall go out of Office in Three Years.

If any Director die, or resign, or become disqualified or incompetent^b to act as a Director, or cease to be a Director by any other Cause than that of going out of Office by Rotation as aforesaid^c, the remaining Directors if they think proper so to do, may elect in his Place any other Shareholder, duly qualified, to be a Director;

Directors
may fill up
Vacancies in
number of
Directors:

and the Shareholder so elected to fill up any such Vacancy shall continue in Office as a Director so long only as the Person in whose Place he shall have been elected shall have been entitled to continue if he had remained in Office.

Director so
appointed, to
hold office
only so long
as his prede-
cessor.

And with respect to the Powers of the Directors, and the Powers of the Company to be exercised only in General Meeting, be it enacted as follows:

*Powers of
Directors.*

The Directors shall have the Management and Intendence of the Affairs of the Company, and they

*General
Powers of
the Company*

^a i.e., in February, if not otherwise fixed by special act; § 66, 83.
^b Disqualifications; § 85-87.

^c § 88.

to be exercised by the Directors, in accordance with act :

and subject to control of general meeting.

Special Powers of the Company which are not to be exercised by the Directors.

may lawfully exercise all the Powers of the Company except as to such Matters as are directed by this special Act to be transacted by a General Meeting of the Company^a; but all the Powers so to be exercised shall be exercised in accordance with and subject to the Provisions of this and the special Act; and the Exercise of all such Powers shall be subject also to the Order and Regulation of any General Meeting specially convened^b for the Purpose, but not so as to render void any Act done by the Directors prior to any Resolution passed by such General Meeting.

91. Except as otherwise provided by the special Act, the following Powers of the Company,—that is to say, the Choice and Removal of the Directors^c, and the increasing or diminishing of their Number^d were^e authorized by the special Act, the Choice of Auditors^f, the Determination as to the Remuneration of the Directors, Auditors, Treasurers and Secretary, the Determination as to the Amount of Money to be borrowed on Mortgage^g, the Determination as to the Augmentation of Capital^h, and the Declaration of Dividendsⁱ,—shall be exercised only at a General Meeting of the Company.

Proceedings of Directors.

And with respect to the Proceedings and Liability of the Directors, be it enacted as follows:

Meetings of Directors.

92. The Directors shall hold Meetings at such Times and Places as they shall appoint for the Purpose; and they may meet and adjourn as they think proper, from Time to Time, and from Place to Place; and at any Time Two of the Directors may require the Secretary to call a Meeting of the Directors; and in order to constitute a

Special Meetings.

Quorum, one-third.

^a § 9, 83, 91, 101, 120, &c.

^b § 67, 68 *et seq.*

^c § 83 *et seq.*

^d § 89, under which annual vacancies in the directorate may be filled.

Directors.

^e § 82.

^f *Sic* : where?

^g § 101, 104.

^h § 28 *et seq.*

ⁱ § 56 *et seq.*

^j § 72, and § 120 *et seq.*

a Meeting of Directors, there shall be present at the least the prescribed Quorum, and when no Quorum shall be prescribed there shall be present at least One Third of the Directors; and all Questions at any such Meeting shall be determined by the Majority of Votes of the Directors present; and in case of an equal Division of Votes, the Chairman shall have a casting Vote in addition to his Vote as one of the Directors.

Majority
binding;

Casting vote.

93. At the First Meeting of Directors held after the passing of the special Act, and at the First Meeting of the Directors held after each annual Appointment^a of Directors, the Directors present at such Meeting shall choose one of the Directors to act as Chairman of the Directors for the Year following such Choice, and shall also, if they think fit, choose another Director to act as Deputy Chairman for the same Period; and if the Chairman or Deputy Chairman die or resign, or cease to be a Director, or otherwise become disqualified to act, the Directors present at the Meeting next after the Occurrence of such Vacancy shall choose some other of the Directors to fill such Vacancy; and every such Chairman or Deputy Chairman so elected as last aforesaid shall continue in Office so long only as the Person in whose Place he may be so elected would have been entitled to continue if such Death, Resignation, Removal, or Disqualification had not happened.

Chairman of
Directors :

annual ap-
pointment.

Deputy
Chairman.

Vacancies in
Chairman-
ship.

94. If at any Meeting of the Directors neither the Chairman nor Deputy Chairman be present, the Directors present shall choose some one of their Number to be Chairman of such Meeting.

Temporary
Chairman.

95. It shall be lawful for the Directors to appoint One or more Committees, consisting of such Number of Directors as they think fit, within the prescribed Limits, if any; and they may grant to such Committees respectively Power on behalf of the Company to do any Acts relating to the Affairs of the Company which the Direc-

Committees
of Directors.

Powers of
Committees.

tors could lawfully do, and which they shall to Time think proper to intrust to them.

Meetings of
Committees.

96. The said Committees may meet from Time to Time, and may adjourn from Place to Place, and think proper, for carrying into effect the Powers entrusted to them by their Appointment; and no such Committee shall exercise the Powers intrusted to them except at a Meeting at which there shall be present the prescribed Quorum, or if no Quorum be prescribed then a Quorum as fixed for that Purpose by the general Body of the Company.

Quorum of
Committees.

At every Meeting of the Committees, One or more Members present shall be appointed Chairman, and the Chairman shall have a casting Vote in addition to his Vote as a Member of the Committee.

Chairman of
Committee.
Majority
binding:

Questions at any Meeting of the Committees shall be determined by a Majority of Votes of the Members present, and in case of an equal Division of Votes the Chairman shall have a casting Vote in addition to his Vote as a Member of the Committee.

Casting vote.

97. The Power which may be granted to the Committee to make Contracts, as well as to the Directors to make Contracts on behalf of the Company, may lawfully be exercised as follows:

Contracts by
Board or
Committee
of Directors,
how to be
entered into

say,
With respect to any Contract which, if made with private Persons, would be by Law required to be in Writing and under Seal, such Committee or the Directors may make such Contract on behalf of the Company in Writing and under the Seal of the Company; and in the same manner may vary or discharge the same:

Where Con-
tracts re-
quired to be
in writing
under Seal;

With respect to any Contract which, if made with private Persons, would be by Law required to be in Writing and signed by the Parties to it, such Committee or the Directors may make such Contract on behalf of the Company in Writing, signed by such Committee or the Directors, or any Two of the Directors; and in the same manner may vary or discharge the same:

Where Con-
tracts to be
in writing
and signed
by parties;

With respect to any Contract which, if made with private Persons, would be by Law required to be in Writing and signed by the Parties to it, such Committee or the Directors may make such Contract on behalf of the Company in Writing, signed by such Committee or the Directors, or any Two of the Directors; and in the same manner may vary or discharge the same:

Particular Con-
tracts.

With respect to any Contract which, if made with private Persons, would be by Law required to be in Writing and signed by the Parties to it, such Committee or the Directors may make such Contract on behalf of the Company in Writing, signed by such Committee or the Directors, or any Two of the Directors; and in the same manner may vary or discharge the same:

Persons, would by Law be valid, although Parol only, and not reduced into Writing, Committee or Directors may make such Contract on behalf of the Company by Parol only, Writing; and in the same Manner may discharge the same:

Contracts made according to the Provisions herein made shall be effectual in Law, and shall be binding on the Company and their Successors, and all persons claiming under them, their Heirs, Executors, or Administrators. No Case may be; and on any Default in the performance of any such Contract, either by the Company or any Party thereto, such Actions or Suits may be brought either by or against the Company, as might have been brought had the same Contracts been made between the Company and the other Party only.

Proceedings
for enforcing
Contracts.

Directors shall cause Notes, Minutes, or other Documents which the Case may require, of all Appointments, Contracts entered into by the Directors, and of the Proceedings of all Meetings of the Company, to be entered in Books, to be from Time to Time kept for the Purpose, which shall be kept under the direction of the Directors; and every such Document so signed by the Chairman of such Meeting; and every Document so signed, shall be received as Evidence in any Court of Law, and before all Judges, Justices, and others, in any Cause or Matter of such respective Meetings having been called or held, or of the Persons making or executing the same, or of the Orders or Proceedings being Shareholders or Members of Committee respectively, or of the Chairman, or of the Fact of his being Chairman, all of which last-mentioned Documents shall be presumed, until the contrary be proved.

Proceedings
to be entered
in Books;
and to be
Evidence,
when signed
by Chairman,
without
further proof.

Acts done by any Meeting of the Directors, Committee of Directors, or by any Person acting as such, shall, notwithstanding it may be afterwards proved that there was some defect in the Ap-

Acts of Directors not
invalidated
by informality or defect
in appointment.

ment or
qualification.

Directors not
to be person-
ally liable.

Indemnifica-
tion of Direc-
tors.

pointment of any such Directors or Persons as aforesaid, or that they or any of them were not qualified, be as valid as if every such Person had been duly appointed and was qualified to be a Director.

100. No Director, by being Party to or executing in his Capacity of Director any Contract or other Instrument on behalf of the Company, or otherwise executing any of the Powers given to the Directors, shall be subject to be sued or prosecuted, either individually or collectively, by any Person whomsoever for the Bodies or Goods or Lands of the Directors, or be liable to Execution of any legal Process by virtue of any Contract or other Instrument so entered into or executed by them, or by reason of any Act done by them in the Execution of any of the Powers as Directors; and the Directors, the Executors, and Administrators, shall be indemnified out of the Capital of the Company for all Payments or Liability incurred in respect of any Acts of them, and for all Losses, Costs, and Damages which they may incur in the Execution of the Powers given to them; and the Directors for the Time being of the Company may apply the existing Funds and Capital of the Company for the Purposes of such Indemnity, if necessary for that Purpose, make Calls of the same remaining unpaid, if any.

Auditors.

And with respect to the Appointment and Election of Auditors, be it enacted as follows:

Election of
Auditors:

by Share-
holders.

Annual
Elections.

101. Except where by the special Act Authorising the Company, the Company shall, at the First Ordinary Meeting after the passing of the special Act, elect the Number of Auditors, and if no Number is so elected, Two Auditors, in like Manner as is provided for the Election of Directors; and at the First Ordinary Meeting after the passing of the special Act, the Company may apply the existing Funds and Capital of the Company for the Purposes of such Indemnity, if necessary for that Purpose, make Calls of the same remaining unpaid, if any.

the Company in each Year thereafter, the Com-
 mial in like Manner elect an Auditor to supply
 ace of the Auditor then retiring from Office,
 ng to the Provision herein-after contained*; and
 Auditor elected as herein-before provided, being
 removed nor disqualified, nor having resigned,
 ontinue to be an Auditor until another be elected
 Stead.

Where no other Qualification shall be prescribed Qualification
of Auditors.
 special Act, every Auditor shall have at least One
 n the Undertaking; and he shall not hold any
 n the Company, nor be in any other Manner in-
 l in its Concerns, except as a Shareholder.

One of such Auditors (to be determined in the Rotation of
Auditors.
 tance by Ballot between themselves, unless they
 herwise agree, and afterwards by Seniority), shall
 of Office at the First Ordinary Meeting in each
 out the Auditor so going out shall be immediately Auditors re-
eligible.
 ole, and after any such Re-election shall, with
 to the going out of Office by Rotation, be deemed
 Auditor.

If any Vacancy take place among the Auditors Vacancies in
Office of Au-
ditor: to be
filled up by
Share-
holders.
 ource of the current Year, then at any General
 g of the Company the Vacancy may, if the Com-
 ink fit, be supplied by Election of the Share-

The Provision of this Act respecting the Failure Failure of
Meeting for
election of
Auditor.
 -dinary Meeting at which Directors ought to be
 shall apply, *mutatis mutandis*, to any Ordinary
 at which an Auditor ought to be appointed.

The Directors shall deliver to such Auditors the Delivery of
Accounts by
Directors to
Auditors: 14
days before
Meeting.
 -ly or other periodical Accounts and Balance
 ourteen Days at the least before the ensuing
 - Meeting at which the same are required to be
 L to the Shareholders as herein-after provided*.

shall be the Duty of such Auditors to receive Duty of
Auditors.

**Powers of
Auditors:**
may employ
persons, and
report, or
confirm
accounts.

from the Directors the half-yearly or other Accounts and Balance Sheet required to be laid to the Shareholders, and to examine the same. 108. It shall be lawful for the Auditors such Accountants and other Persons as they may think proper, at the Expense of the Company; and either make a special Report on the said Accounts, or simply confirm the same; and such Report shall be read, together with the Report of the Directors, at the Ordinary Meeting.

**Account-
ability of
Officers.**

And with respect to the Accountability of the Company, be it enacted as follows:

**Sanctity to
be taken
from Officers
intrusted
with Money.**

109. Before any Person intrusted with the Management or Control of Monies, whether Treasurer, Cashier, or other Officer of the Company, shall enter upon his Office, the Directors shall take sufficient Security for the faithful Execution of his Office.

**Officers to
account, on
demand.**

110. Every Officer employed by the Company from Time to Time, when required by the Directors to make out and deliver to them, or to any other Person pointed by them for that Purpose, a true and correct Account in Writing under his Hand and Seal, of the Monies received by him on behalf of the Company, and of the Purpose such Monies shall have been disposed of, together with such Account, such Officer shall produce the Vouchers and Receipts for such Payments made; and every such Officer shall pay to the Directors or to the Person appointed by them to receive the Monies which shall appear to be owing from him, the Balance of such Accounts.

with vouchers.

**and to pay
Balances.**

**Summary
Remedy
against Part-
ies failing to
account, &c.**

111. If any such Officer fail to render such Account, or to produce and deliver up all the Vouchers and Receipts, or to pay the Balances, the Directors may sue him at Law, or in Equity, for the same.

Receipts relating to the same in his Possession or Power, or to pay the Balance thereof when thereunto required, or if for Three Days after being thereunto required he fail to deliver up to the Directors, or to any Person appointed by them to receive the same, all Papers and Writings, Property, Effects, Matters, and Things, in his Possession or Power, relating to the Execution of this or the special Act, or any Act incorporated therewith, or belonging to the Company, then, on Complaint thereof being made to a Justice, such Justice shall summon such Officer to appear before Two or more Justices at a Time and Place to be set forth in such Summons, to answer such Charge; and upon the Appearance of such Officer, or in his Absence upon Proof that such Summons was personally served upon him, or left at his last known Place of Abode, such Justices may hear and determine the Matter in a Summary Way, and may adjust and declare the Balance owing by such Officer; and if it appear, either upon Confession of such Officer, or upon Evidence, or upon Inspection of the Account, that any Monies of the Company are in the Hands of such Officer or owing by him to the Company, such Justices may order such Officer to pay the same; and if he fail to pay the Amount, it shall be lawful for such Justices to grant a Warrant to levy the same by Distress, or, in default thereof, to commit the Offender to Gaol, there to remain without Bail for a Period not exceeding Three Months, unless the same be sooner paid.

and to deliver
up papers,
&c.

Proceedings
before Jus-
tices.

Balances
may be re-
covered by
distress; or
in default,
imprison-
ment for 3
months.

112. If any such Officer refuse to make out such Account in Writing, or to produce and deliver to the Justices the several Vouchers and Receipts relating thereto, or to deliver up any Books, Papers, or Writings, Property, Effects, Matters, or Things, in his Possession or Power, belonging to the Company, such Justices may lawfully commit such Offender to Gaol, there to remain until he shall have delivered up all the Vouchers and Receipts, if any, in his Possession or Power, relating to such Accounts, and have delivered up all

Officer re-
fusing to
account or de-
liver up Do-
cuments, &c.,
may be im-
prisoned
until he does.

Books, Papers, Writings, Property, Effects, Moneys, and Things, if any, in his Possession or Power, belonging to the Company.

Where reason to believe the Officer about to abscond, a Warrant may be issued in the first instance.

113. Provided always, that if any Director or other Person acting on behalf of the Company shall make an Oath that he has good Reason to believe, upon Grounds to be stated in his Deposition, and does believe, that it is the Intention of any such Officer as aforesaid, to abscond, it shall be lawful for the Justice before whom the Complaint is made, instead of issuing his Summons, to issue his Warrant for the bringing such Officer before such Two Justices as aforesaid; but no Person executing such Warrant shall keep such Officer in Custody longer than Twenty-four Hours, without bringing him before some Justice; and it shall be lawful for the Justice before whom such Officer may be brought to discharge such Officer, if he think there is no Ground for his Detention, or to order such Officer to be detained in Custody, so as to be brought before Two Justices at a Time and Place to be named in the Order, unless such Officer give Bail to the Satisfaction of such Justice for his Appearance before such Justice to answer the Complaint of the Company.

Officer not discharged by such proceedings.

114. No such Proceeding against or Detention of any such Officer as aforesaid shall deprive the Company of any Remedy which they might otherwise have against such Officer, or any Surety of such Officer.

Accounts.

And with respect to the keeping of Accounts, and the Right of Inspection thereof by the Shareholders, as enacted as follows:

Accounts to be kept.

115. The Directors shall cause full and true Accounts to be kept of all Sums of Money received or expended on account of the Company by the Directors, or by any Persons employed by or under them, and of all Moneys and Things for which such Sums of Money have been received or disbursed and paid.

116. The Books of the Company shall be balanced at the prescribed Periods, and if no Periods be prescribed, Fourteen Days at least before each Ordinary Meeting^a; and forthwith on the Books being so balanced, an exact Balance Sheet shall be made up, which shall exhibit a true Statement of the Capital Stock, Credits, and Property of every Description belonging to the Company, and the Debts due by the Company at the Date of making such Balance Sheet, and a distinct View of the Profit or Loss which shall have arisen on the Transactions of the Company in the course of the preceding Half Year; and previously to each Ordinary Meeting, such Balance Sheet shall be examined by the Directors, or any Three of their Number, and shall be signed by the Chairman or Deputy Chairman of the Directors.

Books to be balanced at prescribed periods:

Particulars required to be stated.

Authentication of Accounts by Directors.

117. The Books so balanced, together with such Balance Sheet as aforesaid, shall, for the prescribed Periods,—and if no Periods be prescribed, for Fourteen Days previous to each Ordinary Meeting, and for One Month thereafter,—be open for the Inspection of the Shareholders, at the principal Office or Place of Business of the Company^b: but the Shareholders shall not be entitled at any Time, except during the Periods aforesaid, to demand the Inspection of such Books, unless in virtue of a written Order signed by Three of the Directors.

Accounts to be open to Inspection by Shareholders at stated Times: viz., 14 days before, and a month after, Ordinary Meetings: But not at other times.

118. The Directors shall produce to the Shareholders assembled at such Ordinary Meeting the said Balance Sheet, applicable to the Period immediately preceding such Meeting, together with the Report of the Auditors thereon, as herein-before provided^c.

Audited Account to be produced at the Meeting.

119. The Directors shall appoint a Book-keeper to enter the Accounts aforesaid in Books to be provided for the Purpose; and every such Book-keeper shall permit any Shareholder to inspect such Books, and to

Book-keeper: to allow access to Accounts at appointed Times:

^a § 66, as to periods of Ordinary Meeting, (p. 83.)

^b And see § 119; penalty on Book-keeper for refusal to permit inspection during such periods (p. 102).

^c § 108 (p. 98).

under
Penalty.

take Copies or Extracts therefrom, at any reasonable Time during the prescribed Periods, and if no Periods be prescribed during One Fortnight before and One Month after every Ordinary Meeting; and if he fail to permit any such Shareholder to inspect such Books, or take Copies or Extracts therefrom during the Periods aforesaid, he shall forfeit to such Shareholder for every such Offence a Sum not exceeding Five Pounds.

Dividends.

And *with respect to the making of Dividends*, be it enacted as follows:

Previously to Declaration of Dividends, a Statement of Profits and proposed Distribution to be prepared and exhibited at Meeting.

120. Previously to every Ordinary Meeting at which a Dividend is intended to be declared^a, the Directors shall cause a Scheme to be prepared, showing the Profits, if any, of the Company for the Period current since the preceding Ordinary Meeting at which a Dividend was declared, and apportioning the same, or so much thereof as they may consider applicable to the Purposes of Dividend, among the Shareholders, according to the Shares held by them respectively, the Amount paid thereon, and the Periods during which the same may have been paid; and shall exhibit such Scheme at such Ordinary Meeting; and at such Meeting, a Dividend may be declared according to such Scheme.

Dividend not to be made so as to reduce Capital: Provision.

121. The Company shall not make any Dividend whereby their Capital Stock will be in any degree reduced: Provided always, that the Word “Dividend” shall not be construed to apply to a Return of any Portion of the Capital Stock, with the Consent of all the Mortgagees and Bond Creditors of the Company, due Notice being given for that Purpose at an Extraordinary Meeting to be convened for that Object.

Power to Directors to set apart a Fund for Contingencies, &c.

122. Before apportioning the Profits to be divided among the Shareholders, the Directors^b may, if they

^a § 91. (p. 92.)

^b The Directors may thus apportion the profits and divide the Balance, in the scheme required by § 120 to be prepared and submitted by them to the Ordinary General Meeting of Shareholders: but under § 91 the power of declaring dividends can be exercised only by and at a General Meeting of the Company, (p. 92.)

t, set aside thereout such Sum as they may proper, to meet Contingencies, or for enlarging, g, or improving the Works connected with the tking, or any Part thereof; and may divide^a the only among the Shareholders.

No Dividend shall be paid in respect of any until all Calls then due in respect of that and ther Share held by the Person to whom such d may be payable shall have been paid.

Shareholder not to receive Dividend unless all Calls paid on his shares.

with respect to the making of Bye Laws^b, be it as follows:

It shall be lawful for the Company, from Time , to make such Bye Laws^b as they think fit, for pose of regulating the Conduct of the Officers vants of the Company, and for providing for the nagement of the Affairs of the Company in all

Power to make Bye Laws for Officers and Servants, and for management of the Company:

whatsoever, and from Time to Time to alter or ny such Bye Laws and make others; provided e Laws be not repugnant to the Laws of that the United Kingdom where the same are to have r to the Provisions of this or the special Act: h Bye Laws shall be reduced into Writing, and ve affixed thereto the Common Seal of the Com- and a Copy of such Bye Laws shall be given to Officer and Servant of the Company affected

and copy of Bye Laws to be given to every Officer and Servant affected.

It shall be lawful for the Company, by such ws, to impose such reasonable Penalties upon all , being Officers or Servants of the Company, ig against such Bye Laws, as the Company think exceeding Five Pounds for any One Offence.

Fines for Breach of Bye Laws.

All the Bye Laws to be made by the Company so framed as to allow the Justice before whom

Bye Laws to be so framed as that Penalties may be mitigated.

^a See b in p. 102.

^b Provisions as to Bye Laws for Railways, in § 108 et seq. of 8 Vic. c. 20, by Clauses Consolidation Act, 1845: (VII. 108 et seq.)

^c § 145 as to publication of Penalties imposed by Bye Laws on the Company's servants, &c. (p. 109.)

any Penalty imposed thereby may be sought to be recovered^a, to order a Part only of such Penalty to be paid, if such Justice shall think fit.

Evidence of
Bye Laws,
the Seal of
the Company.

127. The Production of a written or printed Copy of the Bye Laws of the Company, having the Common Seal of the Company affixed thereto, shall be sufficient Evidence of such Bye Laws in all Cases of Prosecution under the same.

Arbitration. And with respect to the Settlement of Disputes by Arbitration, be it enacted as follows:

Mode of
appointing
Arbitrators:

128. When any Dispute authorized or directed by this or the special Act, or any Act incorporated therewith, to be settled by Arbitration^b, shall have arisen, then, unless both Parties shall concur in the Appointment of a single Arbitrator, each Party on the Request of the other Party shall by Writing under his Hand nominate and appoint an Arbitrator to whom such Dispute shall be referred; and after any such Appointment shall have been made neither Party shall have Power to revoke the same without the Consent of the other, nor shall the Death of either Party operate as such Revocation; and if for the Space of Fourteen Days after any such Dispute shall have arisen, and after a Request in Writing shall have been served by the one Party on the other Party to appoint an Arbitrator, such last-mentioned Party fail to appoint such Arbitrator, then upon such Failure the Party making the Request, and having himself appointed an Arbitrator, may appoint such Arbitrator to act on behalf of both Parties, and such Arbitrator may proceed to hear and determine the Matters which shall be in dispute; and in such Case the Award or Determination of such single Arbitrator shall be final.

to be ap-
pointed with-
in 14 days
after Notice,
by each par-
ty, or one
may appoint
for both
parties.

In case of
Vacancy,

129. If before the Matters so referred shall be deter-

^a See § 147 *et seq.*, as to recovery of penalties, (p. 110.)

^b Disputes referable to arbitration, see under *Arbitration*, in Index.

Arbitrator appointed by either Party die, or incapable or refuse or for Seven Days neglect Arbitrator, the Party by whom such Arbitrator appointed may nominate and appoint in Writing any Person to act in his Place; and if, for the seven Days after Notice in Writing from the Party for that Purpose, he fail to do so, the remaining Arbitrator may proceed *ex parte*; and Arbitrator so to be substituted as aforesaid shall have the same Powers and Authorities as were vested in the Arbitrator at the Time of such his Death, Disability as aforesaid.

another Arbitrator to be appointed in manner provided.

Where more than One Arbitrator shall have been appointed, such Arbitrators shall, before they enter upon the Matters referred to them, nominate and appoint in Writing under their Hands an Umpire to decide any such Matters on which they shall differ; and if an Umpire shall die, or refuse or for Seven Days neglect to act, they shall forthwith after such refusal, or Neglect appoint another Umpire in the same manner, and the Decision of every such Umpire on Matters so referred to him shall be final.

Appointment of Umpire, where more than two Arbitrators appointed.

And in either of the Cases aforesaid, the said Arbitrators shall refuse, or shall, for Seven Days after Notice in Writing from either Party to such Arbitration, neglect to appoint an Umpire, it shall be lawful for the Board of Trade, if they think fit, in any Case in which a Railway shall be one Party to the Arbitration, on the Application of either Party to such Arbitration, to appoint an Umpire; and the Decision of such Umpire on Matters on which the Arbitrators shall differ shall be final.

Board of Trade empowered to appoint an Umpire, in certain cases.

The said Arbitrators or their Umpire may call for the Production of any Documents in the Possession of either Party which they or he may think necessary for determining the Question in dispute, and may examine the Parties or their Witnesses on Oath, and administer the Oaths necessary for that Purpose.

Arbitrators and Umpire may call for documents; and administer Oaths.

Costs to be in Discretion of Arbitrators and Umpire.

133. Except where by this or the special Act incorporated therewith, it shall be otherwise provided, the Costs of and attending every session to be determined by the Arbitrators shall be in the Discretion of the Arbitrators or their Umpire.

Submission to Arbitration may be made Rule of Court.

134. The Submission to any such Arbitration shall be made a Rule of any of the Superior Courts of Law on Application of either of the Parties.

Notices.

And with respect to the giving of Notices, as follows:

Service of Notices upon Company.

135. Any Summons or Notice, or any Writ or Proceeding, at Law or in Equity, requiring the Company to appear or answer, may be served by the Plaintiff or the Party moving, or the Solicitor at Law, or the Agent left at, or transmitted through the Post directed to the principal Office of the Company, or one of the principal Offices where there shall be more than one Office, or given personally to the Secretary, or in case there be no Secretary, then by being given to any Officer or Agent of the Company.

Service by Company on Shareholders, by Post in time limited:

136. Notices requiring to be served by the Company upon the Shareholders may, unless expressly provided to be served personally, be served by the Company or the Agent, or transmitted through the Post directed to the registered Address* or other known Address of the Shareholder, within such Period as to admit of the Notice being delivered in the due Course of Delivery. And in proving such Service, it shall be sufficient to prove that such Notice was properly directed, and so put into the Post Office.

Proof of Service.

Notices to Joint Proprietors of Shares.

137. All Notices directed to be given to Shareholders, shall, with respect to any Share to which two or more Persons are jointly entitled, be given to which said Persons shall be named first in the Notice.

Notices required by this or the special Act, incorporated therewith, to be given by t^b, shall be advertised in the prescribed if no Newspaper be prescribed, or if the Newspaper cease to be published, in a News- ing in the District within which the Com- al Place of Business shall be situated.

Summons, Notice, or other such Document Authentication by the Company, may be signed by Two Directors, or by the Treasurer or the Secretary of the Company, and need not be under the Seal of the Company; and the same may be in Print, or partly in Writing and partly in

Authentication of Notices, &c. issued by the Company.

e it enacted, That if any Person against *Bankruptcy or Insolvency.*
 npany shall have any Claim or Demand,
 upt, or take the Benefit of any Act for the
 lvent Debtors, it shall be lawful for the
 reasurer of the Company, in all Proceed-
 e Estate of such Bankrupt or Insolvent,
 Fiat, Sequestration, or Act of Insolvency
 Bankrupt or Insolvent, to represent the
 act in their Behalf, in all respects as if
 Demand had been the Claim or Demand
 ary or Treasurer, and not of the Company.

e it enacted, That if any Party shall have *Damages.*
y Irregularity, Trespass, or other wrong- *Tender of*
g in the Execution of this or the special *Amends.*
tue of any Power or Authority thereby
before Action brought in respect thereof,
like Tender of sufficient Amends to the
such last-mentioned Party shall not re-
uch Action; and if no such Tender shall
le, it shall be lawful for the Defendant, by

Leave of the Court where such Action shall be pending, at any Time before Issue joined, to pay into Court such Sum of Money as he shall think fit; and thereupon such Proceedings shall be had as in other Cases where Defendants are allowed to pay Money into Court.

*Recovery of
Damages
and Penalties.*

And *with respect to the Recovery of Damages not specially provided for, and Penalties^a*, be it enacted as follows:

*Provision for
ascertaining
and recovery
of Costs or
Damages not
otherwise
provided for.*

142. In all Cases where any Damages, Costs or Expenses are by this or the special Act, or any Act incorporated therewith, directed to be paid, and the Method of ascertaining the Amount or enforcing the Payment thereof is not provided for, such Amount, in case of Dispute, shall be ascertained and determined by Two Justices; and if the Amount so ascertained be not paid by the Company or other Party liable to pay the same, within Seven Days after Demand, the Amount may be recovered by Distress of the Goods of the Company or other Party liable as aforesaid; and the Justices by whom the same shall have been ordered to be paid, or either of them^b, on Application, shall issue their or his Warrant accordingly.

*Distress
against the
Treasurer,
where no
sufficient
goods of the
Company:*

143. If sufficient Goods of the Company cannot be found whereon to levy any such Damages, Costs or Expenses, payable by the Company, the same may, if the Amount thereof do not exceed Twenty Pounds, be recovered by Distress of the Goods of the Treasurer of the Company; and the Justices aforesaid, or either of them, on Application, shall issue their or his Warrant accordingly; but no such Distress shall issue against the Goods of such Treasurer unless Seven Days previous Notice in Writing, stating the Amount so due, and demanding Payment thereof, have been given to such

Notice;

^a Similar provisions as to Railways, with some additions, in § 140 *et seq.* of the Railways Clauses Consolidation Act (VII. 140-159).

^b "Or any other Justice," under the Railway Clauses Consolidation Act, § 140 (VII. 140).

ner, or left at his Residence; and if such Treasurer
 by Money under such Distress as aforesaid, he may
 the Amount so paid by him, and all Costs and
 uses occasioned thereby, out of any Money belong-
 the Company coming into his Custody or Control,
 may sue the Company for the same.

Recovery by
 Treasurer
 from Com-
 pany.

Where in this or the special Act, or any Act in-
 tegrated therewith, any Question of Compensation,
 uses, Charges, or Damages, is referred to the Deter-
 mination of any One Justice or more, it shall be lawful
 any Justice, upon the Application of either Party, to
 require the other Party to appear before One Justice,
 or before Two Justices, as the Case may require, at a
 Time and Place to be named in such Summons; and
 in the Appearance of such Parties, or in the Absence
 of them, upon Proof of due Service of the Sum-
 mons, it shall be lawful for such One Justice, or such
 Justices, as the Case may be, to hear and determine
 the Question, and for that Purpose to examine such
 Parties or any of them, and their Witnesses, on Oath;
 and the Costs of every such Inquiry shall be in the Dis-
 cretion of such Justices, and they shall determine the
 Amount thereof.

Mode of
 Proceeding
 before a
 Justice or
 Justices in
 Questions of
 Compensation,
 Damages, &c.

The Company shall publish the short Particulars
 of several Offences for which any Penalty is imposed
 by or under the special Act, or any Act incorporated there-
 in, or by any Bye Law of the Company affecting other
 persons than the Shareholders, Officers, or Servants of
 the Company, and of the Amount of every such Penalty;
 and shall cause such Particulars to be painted on a
 Board or printed upon Paper and pasted thereon, and
 cause such Board to be hung up or affixed on some
 conspicuous Part of the principal Place of Business of
 the Company; and where any such Penalties are of local
 nature, shall cause such Boards to be affixed in

Publication
 by Company,
 of Penalties
 on other than
 Share-
 holders, offi-
 cers, or
 servants:
 mode of
 publication:

Offences, with Penalties against the public or persons unconnected with
 the Company, see *Offences and Penalties in Index.*

Penalty for
defacing
Brass used
for Public
Mark of
Offences and
Penalties.

Recovery of
Penalties,
summarily,
before
Justices:

146. If any Person put down or injure
up or affixed as required by this or the
any Act incorporated therewith, for the
lishing any Bye Law or Penalty, or shall
of the Letters or Figures thereon, he s
every such Offence a Sum not exceeding
and shall defray the Expenses attending t
of such Board.

147. Every Penalty or Forfeiture impo
the special Act, or any Act incorporated
by any Bye Law* made in pursuance th
covery of which is not otherwise provide
recovered by summary Proceeding before
and on Complaint being made to any Ju
issue a Summons, requiring the Party comp
to appear before Two Justices at a Time
be named in such Summons; and every s
shall be served on the Party offending, ei
or by leaving the same with some Inmate
Place of Abode; and upon the Appearance
complained against,—or in his Absence, aft
due Service of such Summons,—it shall be
Justices to proceed to the Hearing of the C
that although no Information in Writin
shall have been exhibited before them; and

lige the Offender to pay the Penalty or Forfeiture red, as well as such Costs attending the Conviction Costs. ch Justices shall think fit.

3. If forthwith upon any such Adjudication as said, the Amount of the Penalty or Forfeiture, and ch Costs as aforesaid, be not paid, the Amount of Penalty and Costs shall be levied by Distress; and Justices, or either of them, shall issue their or his rant of Distress accordingly.

9. It shall be lawful for any such Justice to order Offender so convicted as aforesaid, to be detained kept in safe Custody until Return can be con- ntly made to the Warrant of Distress to be issued vying such Penalty or Forfeiture, and Costs, unless Offender give sufficient Security, by way of Recog- ce or otherwise, to the Satisfaction of the Justice, s Appearance before him on the Day appointed for Return, such Day not being more than Eight Days the Time of taking such Security; but if before g such Warrant of Distress it shall appear to the e, by the Admission of the Offender or otherwise, o sufficient Distress can be had within the Juris- n of such Justice whereon to levy such Penalty or iture, and Costs, he may, if he thinks fit, refrain issuing such Warrant of Distress; and in such Case, uch Warrant shall have been issued, and upon Re- hereof such Insufficiency as aforesaid shall be made pear to the Justice, then such Justice shall, by ant, cause such Offender to be committed to Gaol, to remain without Bail for any Term not exceed- hree Months, unless such Penalty or Forfeiture, osts, be sooner paid and satisfied.

10. Where in this or the special Act, or any Act in- rated therewith, any Sum of Money, whether in ature of Penalty or otherwise, is directed to be by Distress, such Sum of Money shall be levied stress and Sale of the Goods and Chattels of the liable to pay the same; and the Overplus arising

Penalties may be levied by Distress, if not immediately paid.

Offender may be kept in Custody until return made to distress Warrant, unless security be given :

Or Imprisonment may be substituted for Distress.

Distress, how to be levied :

Overplus to be repaid.

from the Sale of such Goods and Chattels, after satisfying such Sum of Money and the Expenses of the Distress and Sale, shall be returned, on Demand, to the Party whose Goods shall have been distrained.

Distress not
unlawful for
Informality,
&c.

151. No Distress levied by virtue of this or the special Act, or any Act incorporated therewith, shall be deemed unlawful, nor shall any Party making the same be deemed a Trespasser, on account of any Defect or Want of Form in the Summons, Conviction, Warrant of Distress, or other Proceeding relating thereto, nor shall such Party be deemed a Trespasser *ab initio* on account of any Irregularity afterwards committed by him; but all Persons aggrieved by such Defect or Irregularity may recover full Satisfaction for the special Damage in an Action upon the Case.

Application
of Penalties:

Part to
Informer;

Part to the
Poor.

152. The Justices by whom any such Penalty or Forfeiture shall be imposed may, where the Application thereof is not otherwise provided for, award not more than One Half thereof to the Informer, and shall award the Remainder to the Overseers of the Poor of the Parish^a in which the Offence shall have been committed, for the Benefit of the Poor of such Parish; or if the Place wherein the Offence shall have been committed shall be extra-parochial, then such Justices shall direct such Remainder to be applied for the Benefit of the Poor of such extra-parochial Place, or of any adjoining Parish or District, and shall order the same to be paid over to the proper Officer for that Purpose.

Penalties to
be sued for
within Six
Months.

153. No Person shall be liable to the Payment of any Penalty or Forfeiture imposed by virtue of this or the special Act, or any Act incorporated therewith, for any Offence made cognizable before a Justice, unless the Complaint respecting such Offence shall have been made before such Justice within Six Months next after the Commission of such Offence.

^a In Ireland, there are no "Overseers of the Poor of the Parish:" and there is no other provision in this act for the application of the portion of the penalties intended for the poor.

154. If, through any Act, Neglect, or Default on account whereof any Person shall have incurred any Penalty imposed by this or the special Act, or any Act incorporated therewith, any Damage to the Property of the Company shall have been committed by such Person, he shall be liable to make good such Damage, as well as to pay such Penalty; and the Amount of such Damages shall, in case of Dispute, be determined by the Justices by whom the Party incurring such Penalty shall have been convicted; and on Non-payment of such Damages, on Demand, the same shall be levied by Distress, and such Justices, or One of them, shall issue their or his Warrant accordingly.

Damage to Company's Property, to be made good in addition to Penalty.

155. It shall be lawful for any Justice to summon any Person to appear before him as a Witness in any Matter in which such Justice shall have Jurisdiction, under the Provisions of this or the special Act, or any Act incorporated therewith, at a Time and Place mentioned in such Summons, and to administer to him an Oath to testify the Truth in such Matter; and if any Person so summoned shall, without reasonable Excuse, refuse or neglect to appear at the Time and Place appointed for that Purpose, having been paid or tendered a reasonable Sum for his Expenses, or if any Person appearing shall refuse to be examined upon Oath or to give Evidence before such Justice, every such Person shall forfeit a Sum not exceeding Five Pounds for every such Offence.

Justice may summon Witnesses; and administer Oath; Penalty on Witnesses making default.

156. It shall be lawful for any Officer or Agent of the Company, and all Persons called by him to his Assistance, to seize and detain any Person who shall have committed any Offence against the Provisions of this or the special Act, or any Act incorporated therewith, and whose Name and Residence shall be unknown to such Officer or Agent, and convey him, with all convenient Despatch, before some Justice, without any Warrant or other Authority than this or the special Act; and such Justice shall proceed with all convenient Despatch to

Offenders unknown to Company's Officers, may be detained by them, and taken before a Justice.

the hearing and determining of the Complaint against such Offender.

Form of Conviction.

157. The Justices before whom any Person shall be convicted of any Offence against this or the special Act, or any Act incorporated therewith, may cause the Conviction to be drawn up according to the Form in the Schedule (G.) to this Act annexed*.

Proceedings not void for informality; and no certiorari.

158. No Proceeding in pursuance of this or the special Act, or any Act incorporated therewith, shall be quashed or vacated for Want of Form; nor shall the same be removed by Certiorari or otherwise into any of the Superior Courts.

Appeal.

Parties aggrieved by adjudication of a Justice may appeal to Quarter Sessions;

159. If any Party shall feel aggrieved by any Determination or Adjudication of any Justice with respect to any Penalty or Forfeiture under the Provisions of this or the special Act, or any Act incorporated therewith, such Party may appeal to the General Quarter Sessions for the County or Place in which the Cause of Appeal shall have arisen; but no such Appeal shall be entertained unless it be made within Four Months next after the making of such Determination or Adjudication, nor unless Ten Days Notice in Writing of such Appeal, stating the Nature and Grounds thereof, be given to the Party against whom the Appeal shall be brought, nor unless the Appellant forthwith after such Notice enter into Recognizances, with Two sufficient Sureties, before a Justice, conditioned duly to prosecute such Appeal, and to abide the Order of the Court thereon.

within 4 months;

Notice;

Security.

Quarter Sessions to hear and determine Appeal.

160. At the Quarter Sessions for which such Notice shall be given, the Court shall proceed to hear and determine the Appeal in a summary Way, or they may, if they think fit, adjourn it to the following Sessions; and upon the hearing of such Appeal, the Court may, if they think fit, mitigate any Penalty or Forfeiture, or they may confirm or quash the Adjudication, and order any Money paid by the Appellant, or levied by Distress

* Form of Conviction by Justices, Schedule G, (p. 119).

upon his Goods, to be returned to him, and may also order such further Satisfaction to be made to the Party injured as they may judge reasonable; and they may make such Order concerning the Costs, both of the Adjudication and of the Appeal, as they may think reasonable.

And with respect to the Provision to be made for affording Access to the special Act by all Parties interested, be it enacted as follows:

161. The Company shall, at all Times after the Expiration of Six Months after the passing of the special Act, keep in their principal Office of Business a Copy of the special Act, printed by the Printers to Her Majesty or some of them; and where the Undertaking shall be a Railway, Canal, or other like Undertaking, the Works of which shall not be confined to one Town or Place, shall also, within the Space of such Six Months, deposit in the Office of each of the Clerks of the Peace of the several Counties into which the Works shall extend, and in the Office of the Town Clerk of every Burgh or City into which or within One Mile of which the Works shall extend, a Copy of such special Act so printed as aforesaid; and the said Clerks of the Peace and Town Clerks shall receive, and they and the Company respectively shall retain, the said Copies of the special Act, and shall permit all Persons interested to inspect the same, and make Extracts or Copies therefrom, in the like Manner and upon the like Terms*, and under the like Penalty for Default*, as is provided in the Case of certain Plans and Sections, by an Act passed in the First Year of the Reign of Her present Majesty, intituled *An Act to compel Clerks of the Peace for Counties and other Persons to take the Custody of such Documents as shall*

Costs.

Access to
Special Act.

Copies of
special Act
to be kept by
the Company,
and deposited
with
Clerks of
Peace and
Town Clerks
within 6
months after
passing of
act :

Copies to be
preserved,
and open to
inspection :

Extracts or
copies may
be taken ;
fees.
Under
Penalties.

* 1 Vic. c. 83, § 2, 3 ; (App., XXIII.)

be directed to be deposited with them under the Standing Orders of either House of Parliament.

Penalty on
Company
not keeping
or depositing
such Copies.

162. If the Company shall fail to keep or deposit as herein-before mentioned any of the said Copies of the special Act, they shall forfeit Twenty Pounds for every such Offence, and also Five Pounds for every Day afterwards during which such Copy shall be not so kept or deposited.

Extent of
Act.

Scotland.

Proviso; for
recovering
Calls against
Shareholders
residing in
Scotland.

163. *And be it enacted, That* this Act shall not extend to Scotland.

164. Provided always, and be it enacted, That if any Shareholder residing in *Scotland* shall fail to pay the Amount of any Call made upon him by the Company in respect of any Share held by him, it shall be lawful for the Company to proceed against him in *Scotland*, and to sue for and recover the Amount of such Call, or to declare such Share forfeited, in such Manner as is by "The Companies Clauses Consolidation (*Scotland*) Act, 1845," in case the same shall pass into a Law, provided in regard to Shareholders of any Company in *Scotland*."

^a 1 Vic. c. 83; (App., XXIII. 2, 3.)

^b The provisions of 8 Vic. c. 17, "the Companies Clauses Consolidation (*Scotland*) Act, 1845," here referred to, are to the following effect:—

"With respect to the Payment of Subscriptions and the Means of enforcing the Payment of Calls," sections 22-29 are identical, totidem verbis, with sections 21-28, under similar head, in the present act, 8 Vic. c. 16; except that in sections 27 and 28 of the Scotch Act, 8 Vic. c. 17, the word "Defender" is used instead of the word "Defendant" in the corresponding sections, 26 and 27 of 8 Vic. c. 16.

"With respect to the Forfeiture of Shares for Non-payment of Calls," sections 30-36 of the Scotch Act, 8 Vic. c. 17, in like manner correspond with § 29-35 of the present act, 8 Vic. c. 16; except that in § 31 of cap. 17, the words "the Edinburgh Gazette" stand in place of the words "the London or Dublin Gazette, according as the Company's principal Place of Business shall be situate in England or Ireland," in § 30 of cap. 16: and in § 34 of cap. 17, "a Declaration in Writing, by some credible Person not interested in the Matter, made before some Sheriff or Justice, that the Call," &c., stands in place of such a Declaration "made before any Justice, or before any Master or Master Extraordinary of the High Court of Chancery," in cap. 16.

SCHEDULE (A.)^a

"The Number One Company."

SCHEDULE (B.)

I, _____, of _____, in consideration of the Sum of _____ paid to me by _____, of _____, do hereby transfer to the said _____, * Share [or Shares], numbered _____, in the Undertaking called "The _____ Company" [or _____ Pounds Consolidated Stock in the Undertaking called "The _____ Company," standing (or Part of the Stock standing) in my Name in the Books of the Company], to hold unto the said _____, his Executors, Administrators, and Assigns [or Successors and Assigns], subject to the several Conditions on which I held the same at the Time of the Execution hereof; and I, the said _____, do hereby agree to take the said Share [or Shares] [or Stock], subject to the same Conditions. As witness our Hands and Seals, the _____ Day of _____

SCHEDULE (C.)^b

"The Mortgage, Number . £ Company."

By virtue of [here name the special Act], We, "The _____ Company,"
in consideration of the Sum of _____ Pounds, paid to us by A.B., of _____, do

^b Under § 6 (p. 62,) each share is to have its own separate number; but there is nothing in the act to prevent several shares with their respective numbers from being included in one and the same certificate. See form of Transfer (Schedule B,) in which several shares may also be included.

⁴ § 14 (p. 65): and § 62 (p. 82).

* State aggregate number of shares transferred; as, one, two, twenty, &c.

'State the numbers of the shares; see note '.

§ 41 (p. 75).

assign unto the said *A.B.*, his Executors, Administrators, and Assigns, the said Undertaking, [and (in case such *Loan shall be in anticipation of the Capital authorized to be raised*) all future Calls on Shareholders], and all the Tolls and Sums of Money arising by virtue of the said Act, and all the Estate, Right, Title, and Interest of the Company in the same; to hold unto the said *A.B.*, his Executors, Administrators, and Assigns, until the said Sum of Pounds, together with Interest for the same at the Rate of for every One hundred Pounds by the Year, be satisfied [the Principal Sum to be repaid at the End of Years from the Date hereof (in case any Period be agreed upon for that Purpose)], [at or any Place of Payment other than the principal Office of the Company]. Given under our Common Seal, this Day of in the Year of our Lord .

SCHEDULE (D.)^a

Form of Bond.

“The Company.”
Bond, Number £

By virtue of [here name the special Act], We, “The Company.” in consideration of the Sum of Pounds to us in Hand paid by *A.B.*, of , do bind ourselves and our Successors unto the said *A.B.*, his Executors, Administrators, and Assigns, in the penal Sum of Pounds.

The Condition of the above Obligation is such, that if the said Company shall pay to the said *A.B.*, his Executors, Administrators, or Assigns, [at (in case any other Place of Payment than the principal Office of the Company be intended)], on the Day of which will be in the Year (One thousand eight hundred and , the Principal Sum of Pounds, together with Interest for the same at the Rate of Pounds per Centum per Annum, payable half-yearly on the Day of and Day of , then the above-written Obligation is to become void, otherwise to remain in full Force. Given under our Common Seal, this Day of One thousand eight hundred and .

SCHEDULE (E.)^b

Form of Transfer of Mortgage or Bond.

I, *A.B.*, of , in consideration of the Sum of paid to me by *G.H.*, of , do hereby transfer to the said *G.H.*, his Executors, Administrators, and Assigns, a certain Bond^c [or Mortgage^d], Number , made by “The Company” to , bearing Date the Day of , for securing the Sum of and Interest [or if such Transfer be by Endorsement, the within Security], and all

^a § 41 (p. 75).

^b § 46 (p. 76).

^c Form of Bond, Schedule D.

^d Form of Mortgage, Schedule C.

my Right, Estate, and Interest in and to the Money thereby secured
 [and if the Transfer be of a Mortgage^a, and in and to the Tolls, Money,
 and Property thereby assigned.] In witness whereof I have hereunto
 set my Hand and Seal, this Day of One thousand eight
 hundred and .

SCHEDULE (F.)

Form of Proxy^b.

A.B., One of the Proprietors of "The Company," doth
 hereby appoint *C.D.*, of , to be the Proxy of the said *A.B.*, in
 his Absence to vote in his Name upon any Matter relating to the
 Undertaking proposed at the Meeting of the Proprietors of the said
 Company to be held on the Day of next, in such Manner
 as he the said *C.D.* doth think proper. In witness whereof the said
A.B. hath hereunto set his Hand [or, if a Corporation, say the Com-
 mon Seal of the Corporation], the Day of One thousand
 eight hundred and .

SCHEDULE (G.)

Form of Conviction^c.

to wit.

BE it remembered, That on the Day of , in the Year of
 our Lord , *A.B.* is convicted before us, *C.*, *D.*, Two of Her Ma-
 jesty's Justices of the Peace for the County of [here describe the
Offence generally, and the Time and Place when and where committed],
 contrary to the [here name the special Act]. Given under our Hands
 and Seals, the Day and Year first-above written.

C.
D.

^a Form of Mortgage, Schedule C.

^b § 76 (p. 86). The proxy must be stamped: under the Stamp Act at present
 in force, a stamp of 6d. is required.

^c § 157 (p. 114).

An Act for consolidating in One Act certain Provisions usually inserted in Acts authorizing the making of Railways.

[8th May, 1845.]

WHEREAS it is expedient to comprise in One Act sundry Provisions usually introduced into Acts of Parliament authorizing the Construction of Railways, and that, as well for the Purpose of avoiding the Necessity of repeating such Provisions in each of the several Acts relating to such Undertakings, as for ensuring greater Uniformity in the Provisions themselves: whereas a Bill is now pending in Parliament, intituled *An Act for consolidating in One Act certain Provisions usually inserted in Acts authorizing the taking of Lands for Undertakings of a public Nature, and which is intended to be called "The Lands Clauses Consolidation Act, 1845:"* May it therefore please Your Majesty that it may be enacted; and be it enacted, That this Act shall apply to every Railway which shall, by any Act which shall hereafter be passed, be authorized to be constructed, and this Act shall be incorporated with such Act; and all the Clauses and Provisions of this Act, save so far as they shall be expressly varied or excluded

Operation of
this Act con-
fined to
future Rail-
ways.

and with such Act, form Part of such Act, and be construed together therewith as forming One Act.

And with respect to the Construction of this Act and other Acts to be incorporated therewith, be it enacted follows:

The Expression "the special Act," used in this Act, shall be construed to mean any Act which shall be passed after passed authorizing the Construction of a Railway, and with which this Act shall be so incorporated as aforesaid; and the Word "prescribed," used in this Act in reference to any Matter herein stated, shall be construed to refer to such Matter as the same shall be prescribed or provided for in the special Act; and the sense in which such Word shall occur shall be construed as if, instead of the Word "prescribed," the Expression "prescribed for that Purpose in the special Act" had been used; and the Expression "the Lands" shall mean the Lands which shall by the special Act be authorized to be taken or used for the Purposes thereof; and the Expression "the Undertaking" shall mean the Railway and Works, of whatever Description, by the special Act authorized to be executed.

The following Words and Expressions, both in this Act and the special Act, shall have the Meanings hereby assigned to them, unless there be something in the Subject or Context repugnant to such Construction; that is

Words importing the Singular Number only, shall include the Plural Number; and Words importing the Plural Number only, shall include also the Singular Number:

Words importing the Masculine Gender only, shall include Females:

The Word "Lands" shall include Messuages, Lands, Tenements, and Hereditaments, of any Tenure:

And the word "Lands" has the meaning assigned to it in § 3, including Messuages, Lands, Tenements, and Hereditaments of any tenure."

- "Lease:" The Word "Lease" shall include an Agreement a Lease:
- "Toll:" The Word "Toll" shall include any Rate or Charge or other Payment payable under the special Act for any Passenger, Animal, Carriage, Goods, Merchandise, Articles, Matters, or Things, coming on the Railway:
- "Goods:" The Word "Goods" shall include Things of every Kind conveyed upon the Railway:
- "Month:" The Word "Month" shall mean Calendar Month:
- "Superior Courts:" The Expression "Superior Courts" shall mean Majesty's Superior Courts of Record at *Westminster* or *Dublin*, as the Case may require:
- "Oath:" The Word "Oath" shall include Affirmation in the Case of Quakers, or other Declaration lawfully substituted for an Oath in the Case of any Persons exempted by Law from the Necessity of taking an Oath:
- "County:" The Word "County" shall include any Riding, or other like Division of a County, and shall also include County of a City or County of a Town:
- "Sheriff:" The Word "Sheriff" shall include Under Sheriff or other legally competent Deputy; and when any Matter in relation to any Lands is required to be done by any Sheriff or Clerk of the Peace, the Expression "the Sheriff," or the Expression "the Clerk of the Peace," shall in such Case be construed to mean the Sheriff or the Clerk of the Peace of the County, City, Borough, Liberty, Cinque Port, or Place where such Lands shall be situate; and when any Lands in question, being the Property of any Person or the same Party, be situate not wholly in one County, City, Borough, Liberty, Cinque Port, or Place, the same Expression shall be construed to mean the Sheriff or Clerk of the Peace of any County, City, Borough, Liberty, Cinque Port, or Place where any Part of such Lands shall be situate:
- "Justice:" The Word "Justice" shall mean Justice of the Peace:

acting for the County, City, Borough, Liberty, Cinque Port, or Place where the Matter requiring the Cognizance of any such Justice shall arise, and who shall not be interested in the Matter; and where such Matter shall arise in respect of Lands, being the Property of one and the same Party, situate not wholly in any one County, City, Borough, Liberty, Cinque Port, or Place, shall mean^a a Justice acting for the County, City, Borough, Liberty, Cinque Port, or Place where any Part of such Lands shall be situate, and who shall not be interested in such Matter; and where any Matter shall be authorized or required to be done by Two Justices, the Expression "Two Justices" shall be understood to mean Two Justices assembled and acting together:

"Two Justices:"

Where, under the Provisions of this or the special Act, any Notice shall be required to be given to the Owner of any Lands, or where any Act shall be authorized or required to be done with the Consent of any such Owner, the Word "Owner" shall be understood to mean any Person or Corporation who, under the Provisions of this or the special Act, or any Act incorporated therewith, would be enabled to sell and convey Lands^b to the Company:

"Owner:"

The Expression "the Company" shall mean the Company or Party which shall be authorized by the special Act to construct the Railway:

"the Company:"

The Expression "the Railway" shall mean the Railway and Works by the special Act authorized to be constructed:

"the Railway:"

The Expression "the Board of Trade" shall mean the Lords of the Committee of Her Majesty's Privy Council appointed for Trade and Foreign Plantations:

"Board of Trade:"

^a the word "Justice" shall mean, &c.

^b Lands" i.e. "Messuages, Lands, Tenements, and Hereditaments, of any"; *supra*, p. 121.

"the Bank :"	The Expression "the Bank," shall mean the Bank of <i>England</i> , where the same shall relate to Monies to be paid or deposited in respect of Lands situate in <i>England</i> ; and shall mean the Bank of <i>Ireland</i> , where the same shall relate to Monies to be paid or deposited in respect of Lands situate in <i>Ireland</i> :
"Turnpike Road," <i>Ireland</i> :	The Expression "Turnpike Road" shall, when applied to any Road in <i>Ireland</i> , include any Road upon which Her Majesty's Mails are or shall be carried in Mail Carriages, or such other Roads as the Commissioners of Public Works in <i>Ireland</i> shall consider to require Arches of greater Width or Height than by this Act is required for public Carriage Roads ^a :
"Surveyor," <i>Ireland</i> :	The Expression "Surveyor," applied to a Road or Highway, shall, as to Railways in <i>Ireland</i> , include the County Surveyor :
"Overseers of the Poor," <i>Ireland</i> .	The Expression "Overseers of the Poor," when applied to <i>Ireland</i> , shall include the Poor Law Guardians ^b of the Electoral Division, and the Clerk of the Guardians of the Union, through which such Railway may pass.
Short Title of Act.	4....In citing this Act in other Acts of Parliament, and in legal Instruments, it shall be sufficient to use the Expression "The Railways Clauses Consolidation Act, 1845."
Manner in which Portions of this Act may be incorporated with other Acts.	5. And whereas it may be convenient, in some Cases, to incorporate with Acts hereafter to be passed some Portion only of the Provisions of this Act; be it therefore enacted, That, for the Purpose of making any such Incorporation, it shall be sufficient in any such Act to enact that the Clauses of this Act with respect to the Matter so proposed to be incorporated (describing such Matter as it is described in this Act, in the Words in-

^a Post, § 49-51.^b i.e. Guardian or Guardians, for plural means singular and singular plural. There are many Electoral Divisions having only one Guardian.

ductory to the Enactment with respect to such matter,) shall be incorporated with such Act; and upon all the Clauses and Provisions of this Act in respect to the Matter so incorporated shall, save so as they shall be expressly varied or excepted by such Act, form Part of such Act; and such Act shall be construed as if the Substance of such Clauses and Provisions were set forth therein with reference to the Matter to which such Act shall relate.

And with respect to the Construction of the Railway and the Works connected therewith, be it enacted as follows:

In exercising the Power given to the Company by special Act to construct the Railway, and to take lands for that Purpose, the Company shall be subject to the Provisions and Restrictions contained in this Act in the said Lands Clauses Consolidation Act^b; and the Company shall make to the Owners and Occupiers and all other Parties interested in, any Lands taken or used for the Purposes of the Railway, or injuriously affected by the Construction thereof, full Compensation of the Value of the Lands so taken or used, and for Damage sustained by such Owners, Occupiers, and Parties, by reason of the Exercise, as regards such Lands, of the Powers by this or the special Act, or any Act incorporated therewith, vested in the Company; except where otherwise provided by this or the special Act, the Amount of such Compensation shall be ascertained and determined in the Manner provided by the said Lands Clauses Consolidation Act^b for determining Questions of Compensation with regard to Lands

Construction of Railway.

Company subject to provisions of this and Lands Clauses Consolidation Acts:

Compensation for Land, &c.

^a "words introductory to the enactment" with respect to any matter in are herein printed in *italic type*, as in this page, in case of the words introductory to § 6 *et seq.*

^b 18 c. 18 (App., XIX.); varied as to Ireland by 14 & 15 Vic. c. 70

purchased or taken under the Provisions of all the Provisions of the said last-mentioned Act, shall be applicable to determining the Amount of Compensation, and to enforcing the Payment and Satisfaction thereof.

Errors and Omissions in Plans, &c., how to be corrected, and correction notified.

7. If any Omission, Mis-statement, or error of Description shall have been made of any Lands, Owners, Lessees, or Occupiers of any Lands, on the Plans or Books of Reference mentioned in the special Act, or in the Schedule to the special Act, it shall be lawful for the Company, after giving Notice to the Owners of the Lands affected, to propose a Correction, to apply to Two Justices of the Peace for the County or Borough in which the Lands are situate, for a Certificate of Correction thereof; and if it shall appear to such Justices that such Omission, Mis-statement, or error of Description arose from Mistake, they shall make a Certificate accordingly, and they shall in such Certificate state the Particulars of any such Omission, and in respect any such Matter shall have been mis-stated or erroneously described; and such Certificate shall be deposited with the Clerks of the Peace of the County or Borough in which the Lands affected thereby are situate, and shall also be deposited with the Clerks of the several Parishes in *England*, and with the Postmasters of the Post Towns in or nearest to the Parishes in *Ireland*, in which the Lands affected thereby shall be situate; and such Certificate shall be shown to such Clerks of the Peace, Parish Clerks, and Postmasters respectively, along with the other Documents to which they relate; and thereupon such Plan, Book of Reference, or Schedule shall be deemed to be conformable to such Certificate; and it shall be the duty of the Company to make the Works in accordance with such Certificate.

Works not

8. It shall not be lawful for the Company to

* 8 Vic. c. 18 (App., XIX.); varied as to *Ireland* by 14 & 15 (XX.)

Execution of the Railway unless they shall have, isly to the Commencement of such Work, depos- th the Clerks of the Peace of the several Counties hrough which the Railway is intended to pass, a and Section of all such Alterations from the l Plan and Section as shall have been approved Parliament, on the same Scale and containing the articulars as the original Plan and Section of the y, and shall also have deposited with the Clerks several Parishes in *England*, and the Postmasters Post Towns in or nearest to such Parishes in l, in or through which such Alterations shall have uthorized to be made, Copies or Extracts of or uch Plans and Sections as shall relate to such s respectively.

to be pro-
ceeded with,
until Plans
of all Alter-
ations ap-
proved by
Parliament
have been
deposited.

he said Clerks of the Peace, Parish Clerks, and sters shall receive the said Plans and Sections of tions, and Copies and Extracts thereof respec- and shall retain the same, as well as the said l Plans and Sections, and shall permit all Persons ted to inspect any of the Documents aforesaid, make Copies and Extracts of and from the same, ke Manner, and upon the like Terms*, and under Penalty for Default*, as is provided in the Case original Plans and Sections by an Act passed in st Year of the Reign of Her present Majesty, in- *An Act to compel Clerks of the Peace for Coun- d other Persons to take the Custody of such Docu- as shall be directed to be deposited with them the Standing Orders of either House of Parlia-*

Clerks of the
Peace, &c.
to receive
Plans of
Alterations,
and preserve
and allow
Inspection of
same.

True Copies of the said Plans and Books of ice, or of any Alteration or Correction thereof, ract therefrom, certified by any such Clerk of ice, which Certificate such Clerk of the Peace

Certified
Copies of
Plans, &c. to
be evidence.

* 1 Vict. c. 83 § 2, 3; (App., XXIII.)

shall give to all Parties interested, when it shall be received in all Courts of Justice or Evidence of the Contents thereof.

Limitations
of Deviation
from Datum
Line de-
scribed on
Sections, &c.:

consents to
Deviation.

Proviso:
Embank-
ments and
Viaducts.

Proviso:
notice of
Petty Ses-
sions for
giving con-
sent.

11. In making the Railway, it shall not be lawful for the Company to deviate from the Levels, as referred to the common Datum Line in the Section approved of by Parliament, marked on the same, to any Extent across any Place Five Feet, or in passing through a Town, Street, or Land continuously built upon, without the previous Consent in Writing of the Owners and Occupiers of the Land in which such Deviation is intended to be made; or in case any Street or Highway shall be affected by such Deviation, the same shall not be made without the like Consent of the Trustees or Commissioners having the Control of such Street or public Highway, or, if there be no Trustees or Commissioners, without the like Consent of two or more Justices of the Peace in Petty Sessions for that Purpose, and acting for the District in which such Street or public Highway may be situated, without the like Consent of the Commissioners of the public Sewers, or the Proprietors of any Gas Works, or Waterworks affected by such Deviation: Provided always, that it shall be lawful for the Company to deviate from the said Levels to any further Extent, without such Consent as aforesaid, in lowering solid Embankments or Viaducts, so that the requisite Height of Headway as prescribed by Act of Parliament be left for Roads, Streets, or Highways, passing under the same: Provided also, that notice of every Petty Sessions to be holden for the purpose of obtaining such Consent of Two Justices as aforesaid, before required, shall, Fourteen Days previous to the holding of such Petty Sessions, be given in writing in a paper circulating in the County, and also posted upon the Door of the Parish Church in

tion or Alteration is intended to be made, or, if
 be no Church, some other Place to which Notices
 usually affixed.

Before it shall be lawful for the Company to
 any greater Deviation from the Level than Five
 or in any Town, Village, Street, or Land con-
 usly built upon, Two Feet, after having obtained
 Consent as aforesaid, it shall be incumbent on the
 pany to give Notice of such intended Deviation by
 c Advertisement, inserted Once at least in Two
 papers, or Twice at least in One Newspaper, cir-
 ing in the District or Neighbourhood where such
 tion is intended to be made, Three Weeks at least
 e commencing to make such Deviation; and it
 be lawful for the Owner of any Lands prejudicially
 ed thereby, at any Time before the Commence-
 of the making of such Deviation, to apply to the
 of Trade, after giving Ten Days Notice to the
 ny, to decide whether, having regard to the
 ts of such Applicants, such proposed Deviation is
 to be made; and it shall be lawful for the Board
 de, if they think fit, to decide such Question
 ightly, and by their Certificate in Writing either
 ow the making of such Deviation or to authorize
 ing thereof, either simply or with any such
 tion as shall seem proper to the Board of Trade;
 : any such Certificate shall have been given by
 d of Trade, it shall not be lawful for the Com-
 make such Deviation except in conformity with
 ificate.

Public
 Notice to be
 given before
 making
 greater
 Deviations.

Owners of
 adjoining
 Lands may,
 after notice,
 appeal to the
 Board of
 Trade against
 such Devia-
 tions;

Board of
 Trade may
 decide.

ere in any Place it is intended to carry the
 on an Arch or Arches or other Viaduct, as
 the said Plan or Section, the same shall be
 rdingly; and where a Tunnel is marked on
 an or Section as intended to be made at any
 ame shall be made accordingly, unless the
 ssees, and Occupiers of the Land in which

Arches, Tun-
 nels, &c. to
 be made as
 marked on
 deposited
 Plans.

such Tunnel is intended to be made shall consent that the same shall not be so made.

Limitation of
Deviations
from Gra-
dients,
Curves, &c.

14. It shall not be lawful for the Company to deviate from or alter the Gradients, Curves, Tunnels, or other engineering Works described in the said Plan or Section, except within the following Limits and under the following Conditions; that is to say,

Subject to the above Provisions in regard to altering Levels, it shall be lawful for the Company to diminish the Inclination or Gradients of the Railway to any Extent, and to increase the said Inclination or Gradients as follows; that is to say, in Gradients of an Inclination not exceeding One in a Hundred, to any Extent not exceeding Ten Feet *per* Mile, or to any further Extent which shall be certified by the Board of Trade to be consistent with the public Safety, and not prejudicial to the public Interest; and in Gradients of or exceeding the Inclination of One in a Hundred, to any Extent not exceeding Three Feet *per* Mile, or to any further Extent which shall be so certified by the Board of Trade as aforesaid:

It shall be lawful for the Company to diminish the Radius of any Curve described in the said Plan to any Extent which shall leave a Radius of not less than Half a Mile, or to any further Extent authorized by such Certificate as aforesaid from the Board of Trade:

It shall be lawful for the Company to make a Tunnel, not marked on the said Plan or Section, instead of a Cutting, or a Viaduct instead of a solid Embankment, if authorized by such Certificate as aforesaid from the Board of Trade.

Lateral De-
viations.

15. It shall be lawful for the Company to deviate from the Line delineated on the Plans so deposited, provided that no such Deviation shall extend to a greater Distance than the Limits of Deviation delineated

Plans, nor to a greater Extent in passing
 on, Village, or Lands continuously built
 up Yards, or elsewhere to a greater Extent
 than the said Yards, from the said Line, and that
 by means of such Deviation be not made
 through the Lands of any Person, whether Owner,
 or Occupier, whose Name is not mentioned in
 Reference, without the previous Consent
 of such Person, unless the Name of such
 Person have been omitted by Mistake, and the
 said Omission proceeded from Mistake shall
 be justified in manner herein* or in the Special
 Order, in Cases of unintentional Errors in the
 Reference.

to the Provisions and Restrictions in this
 Act, and any Act incorporated there- Works to be
 executed.
 in, shall be lawful for the Company, for the Pur-
 posing the Railway, or the Accommodation
 connected therewith, herein-after mentioned, to
 do the following Works; that is to say,

to make or construct, in, upon, across, under, Inclined
 Planes,
 Tunnels,
 Bridges, &c.
 through any Lands, or any Streets, Hills, Valleys,
 Railroads, or Tramroads, Rivers, Canals,
 Streams, or other Waters, within the Lands
 comprised in the said Plans, or mentioned in the
 Order of Reference or any Correction thereof,
 to erect any or permanent Inclined Planes, Tun-
 nels, bankments, Aqueducts, Bridges, Roads,
 Passages, Conduits, Drains, Piers, Arches,
 and Fences as they think proper;

to alter the Course of any Rivers not naviga- Alteration of
 Course of
 Rivers, &c.
 ble, or Streams, or Watercourses, and of any
 other of navigable Rivers, such Branches not
 themselves navigable, within such Lands, for
 the purpose of constructing and maintaining Tun-

* § 7, (p. 126.)

nels, Bridges, Passages, or other Works over or under the same; and divert or alter, as well temporarily as permanently, the Course of any such Rivers or Streams of Water, Roads, Streets, or Ways, or raise or sink the Level of any such Rivers or Streams, Roads, Streets, or Ways, in order the more conveniently to carry the same over or under or by the Side of the Railway, as they may think proper;

Drains, &c. They may make Drains or Conduits, into, through or under any Lands adjoining the Railway, for the Purpose of conveying Water from or to the Railway;

Warehouses, &c. They may erect or construct such Houses, Warehouses, Offices, and other Buildings, Yards, Stations, Wharfs, Engines, Machinery, Apparatus, and other Works and Conveniences as they think proper;

Alterations and Repairs. They may from Time to Time alter, repair, or discontinue the before-mentioned Works or any of them, and substitute others in their Stead; and

General Power. They may do all other Acts necessary for making, maintaining, altering, or repairing, and using the Railway:

Proviso as to Damages. Provided always, that in the Exercise of the Powers by this or the special Act granted, the Company shall do as little Damage as can be, and shall make full Satisfaction in manner herein and in the special Act, and any Act incorporated therewith, provided, to all Parties interested, for all Damage by them sustained by reason of the Exercise of such Powers.

Shore or River Works below High-water Mark not to be executed without Consent of Admiralty, &c. 17. It shall not be lawful for the Company to construct on the Shore of the Sea, or of any Creek, Bay, Arm of the Sea, or navigable River communicating therewith, where and so far up the same as the Tide flows and reflows, any Work, or to construct any Railway or Bridge across any Creek, Bay, Arm of the Sea, or navigable River, where and so far up the same as the

§ 17, 18.] 8 Vict. c. 20: (1845.)

flows and reflows, without the previous Consent of Her Majesty, Her Heirs, and Successors, to be signified in Writing under the Hands of Two of the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works, and Buildings, and of the Lord High Admiral of the United Kingdom of *Great Britain and Ireland*, or the Commissioners for executing the Office of Lord High Admiral aforesaid for the Time being, to be signified in Writing under the Hand of the Secretary of the Admiralty; and then only according to such Plan and under such Restrictions and Regulations as the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works, and Buildings, and the said Lord High Admiral or the said Commissioners, may approve of such Approval being signified as last aforesaid; and where any such Work, Railway, or Bridge shall have been constructed, it shall not be lawful for the Company at any Time to alter or extend the same without obtaining previously to making any such Alteration or Extension, the like Consents or Approvals; and if any Work, Railway, or Bridge shall be commenced or executed contrary to the Provisions of this Act, it shall be lawful for the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works, and Buildings, the said Lord High Admiral or the said Commissioners for executing the Office of Lord High Admiral, to remove the same, and to restore the Site to its former Condition, at the Cost and Charge of the Company; and the Amount thereof may be recovered in the same Manner as a Penalty is recoverable by the Company.

for alterations of main after execution.

It shall be lawful for the Company, for the Purpose of constructing the Railway, to raise, sink, or alter the Position of any of the Watercourses, Rivers, or Gas Pipes belonging to any of the Companies joining or near to the Railway, and also the

Alteration of Water and Gas Pipes, &c.

Mains and other Pipes laid down by any Company or Society who may furnish the Inhabitants of such Houses or Places with Water or Gas, and also to remove all other Obstructions to such Construction, so as the same respectively be done with as little Detriment and Inconvenience to such Company, Society, or Inhabitants as the Circumstances will admit, and be done under the Superintendence of the Company to which such Water Pipes or Gas Pipes belong, and of the several Commissioners or Trustees, or Persons having Control of the Pavements, Sewers, Roads, Streets, Highways, Lanes, and other public Passages and Places within the Parish or District where such Mains, Pipes, or Obstructions shall be situate, or of their Surveyor, if they or he think fit to attend, after receiving not less than Forty-eight Hours Notice for that Purpose.

Company not
to disturb
Pipes until
they have
laid down
others.

19. Provided always, That it shall not be lawful for the Company to remove or displace any of the Mains or Pipes (other than private Service Pipes), Syphons, Plugs, or other Works belonging to any such Company or Society, or to do any thing to impede the Passage of Water or Gas into or through such Mains or Pipes, until good and sufficient Mains or Pipes, Syphons, Plugs, and all other Works necessary or proper for continuing the Supply of Water or Gas, as sufficiently as the same was supplied by the Mains or Pipes proposed to be removed or displaced, shall, at the Expense of the Company, have been first made and laid down in lieu thereof, and be ready for Use, in a Position as little varying from that of the Pipes or Mains proposed to be removed or displaced as may be consistent with the Construction of the Railway, and to the Satisfaction of the Surveyor or Engineer of such Water or Gas Company or Society, or, in case of Disagreement between such Surveyor or Engineer and the Company, as a Justice shall direct.

Pipes, Road,
&c., not to be
varied from

20. It shall not be lawful for the Company to lay down any such Pipes contrary to the Regulations of any

Act of Parliament relating to such Water or Gas Company or Society, or to cause any Road to be lowered for the Purposes of the Railway, without leaving a Covering of not less than Eighteen Inches from the Surface of the Road over such Mains or Pipes.

Act; 18 Inches of Surface Road to be preserved.

21. The Company shall make good all Damage done to the Property of the Water or Gas Company or Society, by the Disturbance thereof, and shall make full Compensation to all Parties for any Loss or Damage which they may sustain by reason of any Interference with the Mains, Pipes, or Works of such Water or Gas Company or Society, or with the private Service Pipes of any Person supplied by them with Water.

Company to make good all Damage.

22. If it shall be necessary to construct the Railway or any of the Works over any Mains or Pipes of any such Water or Gas Company or Society, the Company shall, at their own Expense, construct and maintain a good and sufficient Culvert over such Main or Pipe, so as to leave the same accessible for the Purpose of Repairs.

When Railway crosses Pipes, Company to make a Culvert.

23. If by any such Operations as aforesaid the Company shall interrupt the Supply of any Water or Gas, they shall forfeit Twenty Pounds for every Day that such Supply shall be so interrupted; and such Penalty shall be appropriated to the Benefit of the Poor of the Parish in which such Obstruction shall occur, in such Manner as the Overseers of the Poor of the Parish^a shall direct.

Penalty for obstructing Supply of Gas or Water.

24. If any Person wilfully obstruct any Person acting under the Authority of the Company in the lawful Exercise of their Power, in setting out the Line of the Railway, or pull up or remove any Poles or Stakes driven into the Ground for the Purpose of so setting out the Line of the Railway, or deface or destroy any Marks made for the same Purpose, he shall forfeit a Sum not exceeding Five Pounds for every such Offence.

Penalty for obstructing Persons marking out Railway, &c.

And whereas there are large Tracts of Land in *Ireland* subject to Flood and Injury by Water, and the

Drainage of Lands,—Ireland.

^a i.e.,—Guardian or Guardians of the Electoral Division, in Ireland; see § 1. There are no "Overseers of the Poor of the Parish" in Ireland.

1 & 2 W. 4,
c. 57.

5 & 6 Vict.
c. 89.

intituled *An Act to empower Landed Proprietors in Ireland to sink, embank, and remove Obstructions in Rivers*: And whereas another Act was passed in the Sixth Year of the Reign of Her present Majesty, intituled *An Act to promote the Drainage of Lands in Ireland, and the Improvement of Navigation and Water Power in connection with such Drainage in Ireland*: and by the last-mentioned Act, public Commissioners were appointed to carry the said last-recited Act into effect: And whereas it is essential, for carrying into effect the Purposes of the said Acts, and for the Improvement of Agriculture, that ample Provision be made in the said Acts for the way Works in *Ireland* for the free and unimpeded Passage of the Waters, at such Level as will be sufficient not only for the present but all future Uses of the Waters from Lands crossed by or being adjacent to the Side of such Works, and that the Bridges over the said Works crossing all Watercourses, Rivers, Lakes, or Ponds, which are or hereafter may be made navigable, be so constructed as to admit of the commodious Passage of the same: Therefore,

With respect to the Provision to be made for the Passage of Land in Ireland which may be crossed by a Railway, and for the Protection of the Navigation connected therewith, be it enacted as follows:

5th Year of Her present Majesty^a, or any
 the same, such Plans, Sections, and Sur-
 be necessary to enable the said Commis-
 side upon the Number and Adequacy of
 of all Bridges, Culverts, Tunnels, Water-
 other Works across the Line of such Por-
 aid of the Railway, for the free and unin-
 scharge of the Waters from all Lands
 lying on either Side of or near the Rail-
 Level as shall in the Opinion of the said
^a be sufficient for the present and pro-
 nage and Improvement of such Lands, and
 Rivers, Lakes, Estuaries, or Watercourses,
 now or may be capable of being made
 upon the Height and Adequacy of all
 Works crossing the same, for the commo-
 dation thereof.

Portions of
 the Railway
 which they
 are about to
 execute.

and Commissioners^a shall and they are hereby
 without any unnecessary Delay, to investigate,
 as to them shall seem fit, the Adequacy
 of Works for such Purposes as aforesaid, and to
 certify, by a Writing under their Hands, or
 any Two of them, the Number, Situation,
 and Dimensions as to Breadth, Depth, and
 the several Openings of such Bridges, Cul-
 verts, or other Works connected with such
 Railway as aforesaid, which shall be
 for the Passage of Water, or for Navigation
 across such Railway; and it shall not be law-
 ful for the Company to proceed with the Execution of
 Works connected with any Portion of the
 Railway without having first obtained such a Certificate
 respecting such Portion of the Railway,
 as shall be signed by the said Commissioners or any Two
 of them as aforesaid; nor shall the Company be at

Drainage
 Commission-
 ers in Ireland
 to investigate
 and certify
 as to Works
 necessary for
 Drainage :

Company not
 to proceed
 without such
 Certificate ;

and not to
 deviate from
 same.

er-may make
Summary
Application
to Court of
Chancery, to
enforce the
Execution of
such Works,
in case of
non-compli-
ance of Com-
pany.

Costs.

Saving of
Powers of
Drainage
Commission-
ers.

Chancery, complaining of any Omission of the Company to submit such Plans, Sections &c. to the said Commissioners as aforesaid, for Omission to construct any such Bridge, Tunnel, or other Works for the Passage of Water in such Manner as shall be so certified by the said Commissioners; and thereupon it shall be lawful for the said Court to direct such Works to be made or done by the Company in such Manner as shall be directed to the Certificate of the said Commissioners, if the said Court shall seem necessary or proper, from Time to Time such further or other Orders or Writs restraining the Company or any other Person from proceeding with any of the Works connected with any Portion of Railway, except in conformity with the Certificate of the said Commissioners, and the said Court shall have Power to award Costs against such Company or Persons.

28. Nothing in this or the special Act shall be construed to prejudice or affect the Powers or Authorities of the Commissioners acting in execution of the said Act of the Sixth Year of Her present Majesty, and all such Powers shall be in full force as if

Ireland; be it therefore enacted, That when-
 ey be requisite for the Formation of a Water-
 r manufacturing Purposes to construct an
 lvert, Tunnel, or Watercourse beneath or an
 , above any Railway in *Ireland*, and that Dif-
 hall have arisen between the Directors of such
 and the Person interested in obtaining the
 iver, either as to the Manner in which such
 all be executed, or the Amount of Compensation
 ould be paid, it shall be lawful to refer the
 in issue to the Commissioners acting under
 ecited Act of the Fifth and Sixth Years of the

Commission-
 ers in Ire-
 land to have
 Power to
 decide
 Questions as
 to the Exe-
 cution of
 Works; or
 to execute
 Works for
 carrying
 Water-
 courses
 across the
 Railway, at
 cost of par-
 ties desiring
 same.

Her Majesty Queen *Victoria*^a, and their
 thereon shall be final and conclusive; and if
 ommissioners shall be of opinion that the pro-
 orks can be executed without Injury to the
 and if they shall think proper so to do, they
 ertake the Execution of so much of the said
 shall be in connexion with such Railway, at
 use of the Parties for whose Benefit the Water-
 ll be made, with the same Powers and Autho-
 re given by the said Act for the Execution of
 is for Drainage.

ith respect to the temporary Occupation of Temporary
ear the Railway during the Construction Use of
Land
 e it enacted as follows:

bject to the Provisions herein and in the
 t contained, it shall be lawful for the Com-
 ny Time before the Expiration of the Period
 ecial Act limited for the Completion of the
 to enter upon and use any existing private
 ng a Road gravelled or formed with Stones or
 d Materials, and not being an Avenue or a
 r ornamental Road, or an Approach to any

Company
 may occupy
 temporarily
 private
 Roads within
 Five hun-
 dred Yards
 of the Rail-
 way:

^a Vic. c. 89; Drainage Act, Ireland: see note ^a in p. 137.

Compensation :

shall give Three Weeks Notice of their Intention to the Owners and Occupiers of such Road, and of the Lands over which the same shall pass, and shall in such Notice state the Time during which, and the Lands through which, they intend to occupy such Road; and shall pay Compensation to the Owners and Occupiers of such Road for the Use and Occupation of the same, either in a gross Sum of Money or by Instalments, as shall be agreed upon between the Owners and Occupiers respectively and the Company; and if they differ about the Compensation, the same shall be settled by Two Justices, in the same Manner as is provided in the said Lands Clauses Act. Compensation not exceeding Fifty Pounds shall be settled by the said Lands Clauses Act.

Owners and Occupiers of Road and Land may object that other Roads should be taken.

31. It shall be lawful for the Owners and Occupiers of any such Road, and of the Lands over which the same passes, within Ten Days after the Service of the aforesaid Notice, by Notice in Writing to the Company to object to the Company making use of the Ground that other Roads, such as the Company is herein-before authorized to use for the Purpose of the said, or that some public Road, would be more properly to be used for the same; and upon the Objection being made, the Company may, if they think fit, alter the

in the Manner as if in the Provisions relative to proceedings the Word Road or Roads, or the Road and the Land over which the same passes, as may require, had been substituted in such as for the Word Lands.

Subject to the Provisions herein and in the special Act, it shall be lawful for the Company, at any time before the Expiration of the Period by the Act limited for the Completion of the Railway, making any previous Payment, Tender, or Deposit, to enter upon any Lands within the prescribed Limits, or, if no Limits be prescribed, not being more than one hundred Yards distant from the Centre of the Road as delineated on the Plans, and not being a Orchard, or Plantation attached or belonging to any use, nor a Park, planted Walk, Avenue, or ornamentally planted, and not being nearer to the House of the Owner of any such Lands than the prescribed Distance, or if no Distance be prescribed, nearer than Five hundred Yards therefrom, and to use the said Lands so long as may be necessary for the Construction or Repair of that Portion of the Railway or of the Accommodation Works connected therewith, herein-after mentioned, and to use the same for the following Purposes; that is to say,

Power to Company to take temporary Possession of Land without previous Payment of Price;

1. The Purpose of taking Earth or Soil by Side Cuttings therefrom;

2. The Purpose of depositing Spoil thereon;

3. The Purpose of obtaining Materials therefrom for the Construction or Repair of the Railway or such Accommodation Works as aforesaid; or

4. The Purpose of forming Roads thereon to or from any Part of the Side of the Railway:

And in the exercise of the Powers aforesaid, it shall be lawful for the Company to deposit and also to manufacture and work upon such Lands, Materials of every Kind necessary for constructing the Railway, and also to dig and to take out of any such Lands any Clay, Stone, Gravel,

for certain purposes.

an Action for Nuisance or other Injury, in the Exercise of the Powers herein-before Lands or Habitations of any Party other than whose Lands shall be so taken or used for the Purposes aforesaid: Provided also, that Quarries, &c. Slate Quarry, Brick Field, or other like Place, at the Time of the passing of the Special Act, shall not be only worked or used for getting Materials for the Purpose of selling or disposing of, but shall be taken or used by the Company, either in whole or in part, for any of the Purposes lastly here-mentioned.

Notice to be given by Company before taking such temporary Possession.

33. In case any such Lands shall be required for Spoil Banks or for Side Cuttings, or for getting Materials for the Construction or Repair of the Railway, the Company shall, before entering thereon in any Case of Accident to the Railway requiring Reparation), give Three Weeks Notice in Writing to the Owners and Occupiers of such Lands, of their intention to enter upon the same for such Purpose; and if the said Lands are required for any of the Purposes herein-before mentioned^a, the Company (in the Cases^b aforesaid) give Ten Days Notice thereof; and the Company shall in such Notice respectively state the Substance of the Provision

The said Notice shall either be served personally on the Owners and Occupiers, or left at their last usual place of Abode, if any such can, after diligent Inquiry, and; and in case any such Owner shall be absent from the United Kingdom, or cannot be found after diligent Inquiry, shall also be left with the Occupier of the Lands, or, if there be no such Occupier, shall be left upon some conspicuous Part of such Lands.

Service of Notices on Owners and Occupiers of Lands.

In any Case in which a Notice of Three Weeks is before required to be given^a it shall be lawful for the Owner or Occupier of the Lands therein referred to within Ten Days after the Service of such Notice, to give Notice in Writing to the Company, to object to the Company making use of such Lands, either on the ground that the Lands proposed to be taken for the purposes aforesaid, or some Part thereof, or of the Materials contained therein, are essential to be retained by the Owner, in order to the beneficial Enjoyment of the neighbouring Lands belonging to him, or on the ground that other Lands lying contiguous or near to the Lands proposed to be taken would be more fitting to be taken for such Purposes by the Company; and upon objection being so made, such Proceedings may be had as are hereinafter mentioned^b.

Owner may object on ground that the Lands are necessary to him, or that other Lands ought to be taken.

If the Objection so made be on the ground that the Lands proposed to be taken, or some Part thereof, or the Materials contained therein, are essential to be retained by the Owner in order to the beneficial Enjoyment of other neighbouring Lands belonging to him, it shall be lawful for any Justice, on the Application of the Owner, to summon the Company to appear before the Justices at a Time and Place to be named in the Summons, such Time not being later than the Expiration of the said Twenty-one Days Notice; and on the refusal of the Company, or, in their Absence, upon due Service of the Summons, it shall be lawful for the Justices to inquire into the Truth of such

Power to Two Justices to order that the Lands and Materials shall not be taken, without consent of Owner.

^a § 33.

^b § 36-38; and see § 42, 43.

houring Lands belonging to him, and on
fore to be taken or used by the Company
lawful for such Justices, by Writing under
to order that the Lands so proposed to be
Part thereof, or of the Materials contain
be specified in such Order, shall not be
by the Company; and after Service of s
the Company, it shall not be lawful for th
use, without the previous Consent in W
Owner thereof, any of the Lands or Mate
such Order they are ordered not to take

Power to
Justices to
order other
Lands to be
taken : or to
determine
which Lands
shall be
taken.

37. If the Objection so made as afore
ground that other Lands lying contiguous
posed to be taken, and being sufficient in
such as the Company are herein-before
use for the Purposes aforesaid, would be
be used by the Company, and if in such
pany shall refuse to occupy such other L
those mentioned in the Notice, it shall be
Justice, on the Application of such Owne
to summon the Company and the Owners
of such other Lands to appear before Tw
Time and Place to be named in such S
Time not being more than Fourteen D
Application nor less than Seven Days for

38. If in the Case last mentioned it shall appear to such Justices, upon the Inquiry before them, that the Lands of any other Party not summoned before them, being sufficient in Quantity, and such as the Company are herein-before authorized to take or use for the Purposes aforesaid, would be more fitting to be used by the Company than the Lands of the Person who shall have been so summoned as aforesaid, it shall be lawful for the said Justices to adjourn such Inquiry, and to summon such other Person to appear before them at any Time, not being more than Fourteen Days from such Inquiry nor less than Seven Days from the Service of such Summons; and on the Appearance of the Parties, or, in the Absence of any of them, on Proof of due Service of the Summons, it shall be lawful for such Justices to determine finally which Lands shall be used for the Purposes aforesaid, and to authorize the Company to occupy and use the same accordingly.

Power to the Justices to summon other Owners before them; and determine on Lands to be taken.

39. Before entering, under the Provisions herein-before contained, upon any such Lands as shall be required for Spoil Banks or for Side Cuttings, or for obtaining Materials or forming Roads as aforesaid, the Company shall, if required by the Owner or Occupier thereof, Seven Days at least before the Expiration of the Notice to take such Lands as herein-before mentioned, find Two sufficient Persons, to be approved of by a Justice in case the Parties differ, who shall enter into a Bond to such Owner or Occupier in a Penalty of such Amount as shall be approved of by such Justice, in case the Parties differ, conditioned for the Payment of such Compensation as may become payable in respect of the same in Manner herein mentioned.

Company to give Sureties, if required, for Compensation.

40. Before the Company shall use any such Lands for any of the Purposes aforesaid, they shall, if required so to do by the Owner or Occupier thereof, separate the same by a sufficient Fence from the Lands adjoining thereto, with such Gates as may be required by the said Owner or Occupier for the convenient Occupation of

Company to separate the Lands before using them, with Fences and Gates.

such Lands, and shall also, to all private Roads used by them as aforesaid, put up Fences and Gates in like Manner, in all Cases where the same may be necessary to prevent the straying of Cattle from or upon the Lands traversed by such Roads, and in case of any Difference between the Owners or Occupiers of such Roads and Lands, and the Company, as to the Necessity for such Fences and Gates, such Fences and Gates as any Two Magistrates shall deem necessary for the Purposes aforesaid, on Application being made to them in like Manner as herein-before is provided in respect to the Use of such Roads.

Lands taken for getting Materials, &c., to be worked as the Owner or his Surveyor or Agent may direct.

41. If any Land shall be taken or used by the Company, under the Provisions of this or the special Act, for the Purpose of getting Materials therefrom for the Construction or Repair of the Railway, or the Accommodation Works connected therewith, they shall work the same in such Manner as the Surveyor or Agent of the Owner of such Land shall direct, or, in case of Disagreement between such Surveyor or Agent and the Company, in such Manner as any Justice shall direct, on the Application of either Party, after Notice of the hearing the Application shall have been given to the other Party.

Owners of Lands may compel Company to purchase Lands so temporarily occupied.

42. In all Cases in which the Company shall, in exercise of the Powers aforesaid, enter upon any Lands for the purpose of making Spoil Banks or Side Cuttings thereon, or for obtaining therefrom Materials for the Construction or Repair of the Railway, it shall be lawful for the Owners or Occupiers of such Lands, or Parties having such Estates or Interests therein as, under the Provisions in the said Lands Clauses Consolidation Act mentioned^a, would enable them to sell or convey Lands to the Company, at any Time during the Possession of any such Lands by the Company, and before such Owners or Occupiers shall have accepted Compensation from the

^a 8 Vic. c. 18; (App., XIX.)

by in respect of such temporary Occupation, to Notice in Writing on the Company requiring purchase the said Lands, or the Estates and Interests therein capable of being sold and conveyed by the said Owners or Owners respectively; and in such Notice, such Owners or Owners shall set forth the Particulars of such their Claim or Interest in such Lands, and the Amount of Claim in respect thereof; and the Company shall not be bound to purchase the said Lands, or the Estates and Interest therein capable of being sold and conveyed by the Parties serving such Notice^a.

In any of the Cases aforesaid, where the Company shall not be required to purchase such Lands, and in other Cases where they shall take temporary Possession of Lands by virtue of the Powers herein or in any special Act granted, it shall be incumbent on the Company, within One Month after their Entry upon the said Lands, upon being required so to do, to pay to the Owner of the said Lands the Value of any Crop or other thing that may be thereon, as well as full Compensation for any other Damage of a temporary Nature which he may sustain by reason of their so taking possession of his Lands; and shall also, from Time to Time during their Occupation of the said Lands, pay half the Rent to such Occupier or to the Owner of the Lands, as the Case may require, a Rent, to be fixed by Two Justices of the Peace in case the Parties differ; and shall also within Twelve Months after they shall have ceased to occupy the said Lands, and not later than Six Months after the completion of the Time by the special Act limited for the completion of the Railway, pay to such Owner and Occupier, or deposit in the Bank for the Benefit of all persons interested, as the Case may require, Compensation for all permanent or other Loss, Damage, or Injury which may have been sustained by them by reason of the

Compensation to be made for Crop, &c., and for temporary Occupation.

^a 14 as to determining the amount of Purchase Money or of Compensa-

Exercise, as regards the said Lands, of the Power in or in the special Act granted, including the taking of all Clay, Stone, Gravel, Sand, and other Materials taken from such Lands.

Purchase
Money and
Compensa-
tion to be
ascertained
under Lands
Clauses Act.

44. The Amount and Application of the Purchase Money and other Compensation payable by the Company in any of the Cases aforesaid, shall be determined in the Manner provided by the said Lands Clauses Consolidation Act for determining the Amount and Application of the Compensation to be paid for Lands taken under the Provisions thereof.

Lands for
additional
Stations, &c.
Land may
be taken,

45. And be it enacted, That it shall be lawful for the Company, in addition to the Lands authorised to be compulsorily taken by them under the Powers of the special Act, to contract with any Person to sell the same, for the Purchase of any Land or Lands or near to the Railway, not exceeding in the whole the prescribed Number of Acres for extraordinary Purposes; that is to say,

for addition-
al Stations,
Yards, Ware-
houses, &c.

For the Purpose of making and providing additional Stations, Yards, Wharfs, and Places for the Accommodation of Passengers, and for receiving, depositing, and loading or unloading Goods or Materials to be conveyed upon the Railway, and for the Erection of Weighing Machines, Toll Offices, Warehouses, and other Buildings and Conveniences:

for Roads &c.

For the Purpose of making convenient Ways to the Railway, or any other Purpose which may be requisite or convenient for the Purpose or Use of the Railway.

Crossing of
Roads, and
Construc-
tion of
Bridges

And with respect to the Crossing of Roads, and Interference therewith, be it enacted as follows:

46. If the Line of the Railway cross any Turnpike Road,

^a 8 Vic. c. 18; (App., XIX.)

^b Interpretation of "Turnpike Road" in Ireland, § 3, (p. 134.)

Road or public Highway, then (except where otherwise provided by the special Act) either such Road shall be carried over the Railway, or the Railway shall be carried over such Road, by means of a Bridge, of the Height and Width and with the Ascent or Descent by this or the special Act in that Behalf provided; and such Bridge, with the immediate Approaches, and all other necessary Works connected therewith, shall be executed and at all Times thereafter maintained at the Expense of the Company: Provided always, that with the Consent of Two or more Justices in Petty Sessions, as after mentioned^a, it shall be lawful for the Company to carry the Railway across any Highway, other than a public Carriage Road, on the Level.

Crossing of
Roads;
Bridges and
approaches.

Proviso as to
crossing on
Level.

47. If the Railway cross any Turnpike Road^b or public Carriage Road on a Level, the Company shall erect and at all Times maintain good and sufficient Gates across such Road, on each Side of the Railway where the same shall communicate therewith, and shall employ proper Persons to open and shut such Gates; and such Gates shall be kept constantly closed across such Road, on both Sides of the Railway, except during the Time when Horses, Cattle, Carts, or Carriages passing along the same shall have to cross such Railway; and such Gates shall be of such Dimensions and so constructed as, when closed, to fence in the Railway, and prevent Cattle or Horses passing along the Road from entering upon the Railway; and the Person intrusted with the Care of such Gates shall cause the same to be closed as soon as such Horses, Cattle, Carts, or Carriages shall have passed through the same, under a Penalty of Forty Shillings for every Default therein: Provided always, that it shall be lawful for the Board of Trade, in any Case in which they are satisfied that it will be more conducive to the public Safety that the Gates on any Level crossing over any such Road should be kept closed across the Railway,

Level Cross-
ings over
Roads;

Gates and
Gatekeepers;

Closing of
Gates, under
Penalty.

Power of
Board of
Trade in re-
spect of
closing Gates.

^a See § 59, as to Notice, and power of Justices; (p. 155.)

^b Interpretation of "Turnpike Road" in Ireland, § 3, (p. 124.)

to order that such Gates shall be kept so closed, if of across the Road; and in such Case, such Gates kept constantly closed across the Railway, except Engines or Carriages passing along the Railway have Occasion to cross such Road, in the same manner and under the like Penalty as above directed in respect to the Gates being kept closed across the Road.

At level crossings of Turnpike Roads adjoining Stations, speed to be slackened, and Board of Trade may make regulations.

48. Where the Railway crosses any Turnpike Road on a Level adjoining to a Station, all Trains of the Railway shall be made to slacken their Speed when arriving at such Turnpike Road, and shall not exceed the same at any greater Rate of Speed than Four Miles an Hour; and the Company shall be subject to all Rules and Regulations with regard to such Crossings, which may from Time to Time be made by the Board of Trade.

Railway Bridges over Roads to be constructed according to specified regulations; Width of Arch,

Height of Arch;

Height of arch;

49. Every Bridge to be erected for the purpose of carrying the Railway over any Road shall (where otherwise provided by the special Act) be constructed in conformity with the following Regulations; that is to say:

The Width of the Arch shall be such as to afford thereunder a clear Space of not less than Ten Feet five Feet if the Arch be over a Turnpike Road, and of Twenty-five Feet if over a public Carriage Road, and of Twelve Feet if over a private Carriage Road. The clear Height of the Arch from the Surface of the Road shall not be less than Sixteen Feet if over a Turnpike Road, and of Twelve Feet if the Arch be over a private Carriage Road, and Fifteen Feet for a Space of Twelve Feet if over a public Carriage Road; and in all of such Cases the clear Height at the spring of the Arch shall not be less than Twelve Feet. The clear Height of the Arch for a Space of Twelve Feet shall not be less than Fourteen Feet if over a private Carriage Road:

* Provisions as to Gates at level Crossings, in previous act (1842) *Consolidation of Railways, 5 & 6 Vic. c. 55, § 9 (IV. 9)*

^b Interpretation of "Turnpike Road" in Ireland, § 3, (p. 134)

The Descent made in the Road in order to carry the same under the Bridge shall not be more than One Foot in Thirty Feet if the Bridge be over a Turnpike Road^a, One Foot in Twenty Feet if over a public Carriage Road, and One Foot in Sixteen Feet if over a private Carriage Road, not being a Tramroad or Railroad; or if the same be a Tramroad or Railroad, the Descent shall not be greater than the prescribed Rate of Inclination, and if no Rate be prescribed the same shall not be greater than as it existed at the passing of the special Act.

Descent.

50. Every Bridge erected for carrying any Road over the Railway shall (except as otherwise provided by the special Act) be built in conformity with the following Regulations; that is to say,

Bridges over Railway to be constructed according to specified regulations :

There shall be a good and sufficient Fence on each Side of the Bridge of not less Height than Four Feet, and on each Side of the immediate Approaches of such Bridge of not less than Three Feet:

Fences ;

The Road over the Bridge shall have a clear Space between the Fences thereof of Thirty-five Feet if the Road be a Turnpike Road^a, and Twenty-five Feet if a public Carriage Road, and Twelve Feet if a private Road:

Width of Roadway ;

The Ascent shall not be more than One Foot in Thirty Feet if the Road be a Turnpike Road^a, One Foot in Twenty Feet if a public Carriage Road, and One Foot in Sixteen Feet if a private Carriage Road, not being a Tramroad or Railroad; or if the same be a Tramroad or Railroad, the Ascent shall not be greater than the prescribed Rate of Inclination, and if no Rate be prescribed the same shall not be greater than as it existed at the passing of the special Act.

Ascent.

51. Provided always, That in all Cases where the average available Width for the Passage of Carriages, of any existing Roads, within Fifty Yards of the Points

But Width of Bridges need not exceed Width

^a Interpretation of "Turnpike Road" in Ireland, § 3, (p. 124.)

of Road in
certain Cases.

of crossing the same, is less than the Width herein-before prescribed for Bridges over or under the Railway, the Width of such Bridges need not be greater than such average available Width of such Roads, but so nevertheless that such Bridges be not of less Width, in the Case of a Turnpike Road^a or public Carriage Road, than Twenty Feet: Provided also, that if, at any Time after the Construction of the Railway, the average available Width of any such Road shall be increased beyond the Width of such Bridge on either Side thereof, the Company shall be bound, at their own Expense, to increase the Width of the said Bridge to such Extent as they may be required by the Trustees or Surveyors of such Road, not exceeding the Width of such Road as so widened, or the maximum Width herein or in the special Act prescribed for a Bridge in the like Case over or under the Railway.

And existing
Inclinations
of Roads
crossed or
diverted
need not be
altered in
Cases speci-
fied.

52. Provided also, That if the mesne Inclination of any Road within Two hundred and fifty Yards of the Point of crossing the same, or the Inclination of such Portion of any Road as may require to be altered, or for which another Road shall be substituted, shall be steeper than the Inclination herein-before required to be preserved by the Company, then the Company may carry any such Road over or under the Railway, or may construct such altered or substituted Road at an Inclination not steeper than the said mesne Inclination of the Road so to be crossed, or of the Road so requiring to be altered, or for which another Road shall be substituted.

Before exist-
ing Roads
interfered
with, others
to be substi-
tuted.

53. If, in the Exercise of the Powers by this or the special Act granted, it be found necessary to cross, cut through, raise, sink, or use any Part of any Road, whether Carriage Road, Horse Road, Tramroad, or Railway, either public or private, so as to render it impassable for, or dangerous or extraordinarily inconvenient to, Passengers or Carriages, or to the Persons entitled to the Use thereof, the Company shall, before

^a Interpretation of "Turnpike Road" in Ireland, § 3, (p. 124.)

the Commencement of any such Operations, cause a sufficient Road to be made instead of the Road to be interfered with, and shall at their own Expense maintain such substituted Road in a State as convenient for Passengers and Carriages as the Road so interfered with, or as nearly so as may be.

54. If the Company do not cause another sufficient Road to be so made before they interfere with any such existing Road as aforesaid, they shall forfeit Twenty Pounds for every Day^a during which such substituted Road shall not be made after the existing Road shall have been interrupted; and such Penalty shall be paid to the Trustees, Commissioners, Surveyor, or other Person having the Management of such Road, if a public Road, and shall be applied for the Purposes thereof; or in case of a private Road, the same shall be paid to the Owner thereof; and every such Penalty shall be recoverable with Costs by Action in any of the Superior Courts.

Penalty for not substituting a Road before interfering with existing Road.

55. If any Party entitled to a Right of Way over any Road so interfered with by the Company shall suffer any special Damage by reason that the Company shall fail to cause another sufficient Road to be made before they interfere with the existing Road, it shall be lawful for such Party to recover the Amount of such special Damage from the Company, with Costs, by Action on the Case in any of the Superior Courts, and that whether any Party shall have sued for such Penalty as aforesaid^b or not, and without Prejudice to the Right of any Party to sue for the same.

Party suffering Damage from Interruption of Road may recover in an Action on the Case.

56. If the Road so interfered with can be restored compatibly with the Formation and Use of the Railway, the same shall be restored to as good a Condition as the same was in at the Time when the same was first interfered with by the Company, or as near thereto as may be; and if such Road cannot be restored compatibly with the Formation and Use of the Railway, the Company shall cause the new or substituted Road, or some

Restoration of Roads, or Formation of new Road;

^a And an action for damage in addition may be had, under § 55.

§ 54.

within cer-
tain periods.

other sufficient substituted Road, to be put into a permanently substantial Condition, equally convenient as the former Road, or as near thereto as Circumstances will allow; and the former Road shall be restored, or the substituted Road put into such Condition as aforesaid, as the Case may be, within the following Periods after the first Operation on the former Road shall have been commenced, unless the Trustees or Parties having the Management of the Road to be restored, by Writing under their Hands, consent to an Extension of the Period, and in such Case within such extended Period; that is to say, if the Road be a Turnpike Road^a, within Six Months, and if the Road be not a Turnpike Road^a, within Twelve Months.

Penalty for
failing to
restore Road,
or complete
new Road,
within speci-
fied time.

57. If any such Road be not so restored, or the substituted Road so completed as aforesaid, within the Periods herein or in the special Act fixed for that Purpose, the Company shall forfeit to the Trustees, Commissioners, Surveyor, or other Person having the Management of the Road interfered with by the Company, if a public Road, or if a private Road to the Owner thereof, Five Pounds for every Day after the Expiration of such Periods respectively during which such Road shall not be so restored or the substituted Road completed; and it shall be lawful for the Justices by whom any such Penalty is imposed, to order the whole or any Part thereof to be laid out in executing the Work in respect whereof such Penalty was incurred.

Company to
make good
any Damage
to Roads
used by
them :
Disputes to
be deter-
mined by
Justices ;

58. If, in the course of making the Railway, the Company shall use or interfere with any Road, they shall from Time to Time make good all Damage done by them to such Road; and if any Question shall arise as to the Damage done to any such Road by the Company, or as to the Repair thereof by them, such Question shall be referred to the Determination of Two Justices; and such Justices may direct such Repairs to be made in the State of such Road, in respect of the Damage done by

^a Interpretation of "Turnpike Road" in Ireland, § 3, (p. 124.)

the Company, and within such Period, as they think reasonable, and may impose on the Company, for not carrying into effect such Repairs, any Penalty not exceeding Five Pounds *per* Day as to such Justices shall seem just; and such Penalty shall be paid to the Surveyor or other Person having the Management of the Road interfered with by the Company, if a public Road, and be applied for the Purposes of such Road, or if a private Road, the same shall be paid to the Owner thereof: Provided always, that in determining any such Question with regard to a Turnpike Road the said Justices shall have regard to and shall make full Allowance for any Tolls that may have been paid by the Company on such Road in the course of the using thereof.

Penalties.

59. When the Company shall intend to apply for the Consent of Two Justices, as herein-before provided^a, so as to authorize them to carry the Railway across any Highway other than a public Carriage Road on the Level, they shall, Fourteen Days at least previous to the holding of the Petty Sessions at which such Application is intended to be made, cause Notice of such intended Application to be given in some Newspaper circulating in the County, and also to be affixed upon the Door of the Parish Church of the Parish in which such Crossing is intended to be made, or if there be no such Church some other Place to which Notices are usually affixed; and if it appear to any Two or more Justices, acting for the District in which such Highway at the proposed Crossing thereof is situate, and assembled in Petty Sessions, after such Notice as aforesaid, that the Railway can, consistently with a due Regard to the Public Safety and Convenience, be carried across such Highway on the Level, it shall be lawful for such Justices to consent that the same may be so carried accordingly.

Proceedings on Application to Justices to consent to level Crossings over Bridleways and Footways:

Notice;

Power to Justices to consent.

^a § 46, (p. 149.)

Appeal to
Quarter Ses-
sions against
Determina-
tion of
Justices.

60. If either Party shall feel aggrieved by the Determination of such Justices upon any such Application as aforesaid^a, it shall be lawful for such Party, in like Manner and subject to the like Conditions as are hereinafter provided in the Case of Appeals in respect of Penalties and Forfeitures^b, to appeal to the Quarter Sessions of the County or Place in which the Cause of Appeal shall have arisen; and it shall be lawful for the Justices in such Quarter Sessions, upon the Hearing of such Appeal, either to confirm or quash the Determination, or to make such other Order in regard to the Method of carrying the Railway across such Highway as aforesaid, as to them shall seem fit, and to make such Order concerning the Costs, both of the original Application and of the Appeal, as to them shall seem reasonable.

Costs.

Approaches
and Fences,
&c. to Bridle-
ways and
Footways
crossed on
the Level.

61. If the Railway shall cross any Highway other than a public Carriageway on the Level, the Company shall, at their own Expense, make and at all Times maintain convenient Ascents and Descents and other convenient Approaches, with Handrails or other Fences, and shall, if such Highway be a Bridleway, erect and at all Times maintain good and sufficient Gates, and if the same shall be a Footway, good and sufficient Gates or Stiles, on each Side of the Railway where the Highway shall communicate therewith.

Proceedings
to enforce
such Ap-
proaches and
Fences, &c. ;

Application
to Justices :

62. If, where the Railway shall cross any Highway on the Level, the Company fail to make convenient Ascents and Descents or other convenient Approaches, and such Handrails, Fence, Gates, and Stiles as they are herein-before required^c to make, it shall be lawful for Two Justices, on the Application of the Surveyor of Roads, or of any Two Householdors within the Parish or District where such Crossing shall be situate, after not less than Ten Days Notice to the Company, to order the Company to make such Ascent and Descent or other

^a § 59.

^b § 157 (p. 194.)

^c § 61.

Approach, or such Handrails, Fences, Gates, or Stiles as aforesaid, within a Period to be limited for that Purpose by such Justices; and if the Company fail to comply with such Order they shall forfeit Five Pounds for every Day that they fail so to do; and it shall be lawful for the Justices by whom any such Penalty is imposed, to order the whole or any Part thereof to be applied in such Manner and by such Person as they think fit, in executing the Work in respect whereof such Penalty was incurred.

63. If the Commissioners or Trustees of any Turnpike Road^a, or the Surveyor of any Highway, apprehend Danger to the Passengers on such Road in consequence of Horses being frightened by the Sight of the Engines or Carriages travelling upon the Railway, it shall be lawful for such Commissioners, or Trustees, or Surveyor, after giving Fourteen Days Notice to the Company, to apply to the Board of Trade with respect thereto; and if it shall appear to the said Board that such Danger might be obviated or lessened by the Construction of any Works in the Nature of a Screen near to or adjoining the Side of such Road, it shall be lawful for them, if they shall think fit, to certify the Works necessary or proper to be executed by the Company for the Purpose of obviating or lessening such Danger, and by such Certificate to require the Company to execute such Works within a certain Time after the Service of such Certificate, to be appointed by the said Board.

64. Where by any such Certificate as aforesaid the Company shall have been required to execute any such Work in the Nature of a Screen, they shall execute and complete the same within the Period appointed for that Purpose in such Certificate; and if they fail so to do, they shall forfeit to the said Commissioners, or Trustees, or Surveyor, Five Pounds for every Day during which

Penalties.

Screens for Turnpike Roads.

Screen for public Roads may be ordered by Board of Trade, on application after Notice to Company.

Penalty for failing to construct Screens in time limited, according to Certificate of Board of Trade.

^a Interpretation of "Turnpike Road" in Ireland, § 3, (p. 124.)

such Works shall remain uncompleted beyond the time so appointed for their Completion; and it shall be lawful for the Justices by whom any such Penalty is imposed to order the whole or any Part thereof to be forthwith executing the Work in respect whereof such Penalty is incurred.

Repair of Works.

Justices may order Repair of Bridges, Fences, &c., where Company bound to keep the works in repair.

65. Where, under the Provisions of this or the said Act, or any Act incorporated therewith, the Company are required to maintain or keep in repair any Fence, Approach, Gate, or other Work erected by them, it shall be lawful for Two Justices, on the Application of the Surveyor of Roads, or of any of the Householdors of the Parish or District where such Work may be situate, complaining that any such Work is in want of repair, after not less than Ten Days Notice in Writing to the Company, to order the Company to put such Work in complete Repair within a Period to be limited by the Purpose by such Justices; and if the Company fail to comply with such Order they shall forfeit Five Pence for every Day that they fail so to do; and it shall be lawful for the Justices by whom any such Penalty is imposed, to order the whole or any Part thereof to be applied in such Manner and by such Persons as they think fit, in putting such Work into repair.

Penalty

Construction of Works.

Power to Board of Trade to determine the mode of construction in certain cases

66. And whereas Expense might frequently be avoided, and public Convenience promoted, by reference to the Board of Trade upon the Construction of public Works of an engineering Nature connected with the Railway, where a strict Compliance with the Provisions of this or the special Act might be inconvenient or attended with Inconvenience to the Company, without adequate Advantage to the Public, it is hereby enacted, That in case any Difference in regard to the Construction, Alteration, or Restoration of any

* As under § 22, 46, 47, 53, 61, 68 70, &c.

Bridge, or other public Work of an engineering Nature required by the Provisions of this or the special Act, shall arise between the Company and any Trustees, Commissioners, Surveyors, or other Persons having the Control of or being authorized by Law to enforce the Construction of such Road, Bridge, or Work, it shall be lawful for either Party, after giving Fourteen Days Notice in Writing of their Intention so to do to the other Party, to apply to the Board of Trade to decide upon the proper Manner of constructing, altering, or restoring such Road, Bridge, or other Work; and it shall be lawful for the Board of Trade, if they shall think fit, to decide the same accordingly, and to authorize by Certificate in Writing, any Arrangement or Mode of Construction in regard to any such Road, Bridge, or other Work which shall appear to them either to be in substantial Compliance with the Provisions of this and the special Act, or to be calculated to afford equal or greater Accommodation to the Public using such Road, Bridge, or other Work; and after any such Certificate shall have been given by the Board of Trade, the Road, Bridge, or other Work therein mentioned shall be constructed by the Company in conformity with the Terms of such Certificate, and being so constructed shall be deemed to be constructed in conformity with the Provisions of this and the special Act: Provided always, that no such Certificate shall be granted by the Board of Trade unless they shall be satisfied that existing private Rights or Interests will not be injuriously affected thereby.

On applica-
tion from
Company or
other parties,
after 14 days
notice.

67. *And be it enacted, That* all Regulations, Certificates, Notices, and other Documents in Writing purporting to be made or issued by or by the Authority of the Board of Trade, and signed by some Officer appointed for that Purpose by the Board of Trade, shall, for the Purposes of this and the special Act, and any Act incorporated therewith, be deemed to have been so

*Board of
Trade.
Authentica-
tion of Cer-
tificates, &c.,
of Board of
Trade:*

Service of
Notices, &c.,
by or upon
Board of
Trade.

made and issued, and that without Proof of the authority of the Person signing the same, or of the Signature thereto^a, which Matters shall be presumed to the contrary be proved; and Service of any such Document, by leaving the same at one of the principal Offices of the Railway Company, or by sending the same by Post addressed to the Secretary at such Office shall be deemed good Service upon the Company; and all Notices and other Documents required by the special Act to be given to or laid before the Board of Trade shall be delivered at, or sent by Post addressed to, the Office of the Board of Trade in London.

Works for
Protection
and Accom-
modation of
Lands.

Accommoda-
tion Works
to be made
by Company.

Gates,
Bridges, &c.

Fences.

And with respect to Works for the Accommodation of Lands adjoining the Railway, be it enacted with

68. The Company shall make and at all Times after maintain the following Works for the Accommodation of the Owners and Occupiers of Lands adjoining the Railway; that is to say,

Such and so many convenient Gates^b, Bridges, Culverts, and Passages over, under, or on the Sides of or leading to or from the Railway as shall be necessary for the Purpose of making no Interruptions caused by the Railway to the Passage of the Lands through which the Railway shall be made; and such Works shall be made before the Part of the Railway passing over the Lands shall have been laid out or formed, or the Formation thereof:

Also sufficient Posts, Rails, Hedges, Ditches, or other Fences for separating the Land from the Use of the Railway from the adjoining Land not taken, and protecting such Lands from the Pass, or the Cattle of the Owners or the

^a See subsequent provision in act of 1851; § 3 of 14 & 15 V. c. 2.

^b § 75 enacts a penalty on persons omitting to shut and lock the Protection Gates after passing through them (p. 163); and § 45 a similar provision with respect to Gates at crossing of public roads (p. 149).

thereof from straying thereout by reason of the Railway, together with all necessary Gates made to open towards such adjoining Lands, and not towards the Railway, and all necessary Stiles; and such Posts, Rails, and other Fences shall be made forthwith after the taking of any such Lands, if the Owners thereof shall so require, and the said other Works as soon as conveniently may be:

Gates to open from, not towards, Railway:

Also all necessary Arches, Tunnels, Culverts, Drains, or other Passages, either over or under or by the Sides of the Railway, of such Dimensions as will be sufficient at all Times to convey the Water as clearly from the Lands lying near or affected by the Railway as before the making of the Railway, or as nearly so as may be; and such Works shall be made from Time to Time as the Railway Works proceed:

Drains:

Also proper Watering Places for Cattle where by reason of the Railway the Cattle of any Person occupying any Lands lying near thereto shall be deprived of Access to their former Watering Places; and such Watering Places shall be so made as to be at all Times as sufficiently supplied with Water as theretofore, and as if the Railway had not been made, or as nearly so as may be; and the Company shall make all necessary Watercourses and Drains for the Purpose of conveying Water to the said Watering Places:

Watering Places for Cattle in certain cases.

Provided always, that the Company shall not be required to make such Accommodation Works in such a Manner as would prevent or obstruct the working or using of the Railway, nor to make any Accommodation Works with respect to which the Owners and Occupiers of the Lands shall have agreed to receive and shall have been paid Compensation instead of the making them.

Provisos.

69. If any Difference arise respecting the Kind or Number of any such Accommodation Works, or the Dimensions or Sufficiency thereof, or respecting the

Differences as to Accommodation Works to be settled by Justices.

cost of the
Company in
their default:

Disputes to
be settled by
Justices.

Proviso.

Accommoda-
tion Works
in addition to
those by
Company,
may be made
by Owners of
Land.

such Works the Company shall fail to com-
Works, or having commenced shall fail to pro-
gently to execute the same in a sufficient
shall be lawful for the Party aggrieved by such
himself to execute such Works or Repairs
reasonable Expenses thereof shall be repaid
Company to the Party by whom the same shall
been executed; and if there be any Dispute about
Expenses the same shall be settled by Two
Provided always, that no such Owner or Occupier
other Person shall obstruct or injure the Rail-
any of the Works connected therewith, for
Time, nor use them in any other Manner, than
avoidably necessary for the Execution or Repair
Accommodation Works.

71. If any of the Owners or Occupiers of Land
affected by such Railway shall consider the Accom-
modation Works made by the Company, or directed
such Justices to be made by the Company, insufficient
for the commodious Use of their respective Lands,
shall be lawful for any such Owner or Occupier of Land
Time, at his own Expense, to make such further Works
for that Purpose as he shall think necessary, and which
be agreed to by the Company, or, in case of Dispute,
as shall be authorized by Two Justices.

that incurred in the Execution of similar Works by the Company, or that the Plans selected should be executed in a more expensive Manner than that adopted in similar Cases by the Company.

73. The Company shall not be compelled to make any further or additional Accommodation Works for the Use of Owners and Occupiers of Land adjoining the Railway after the Expiration of the prescribed Period, or, if no Period be prescribed, after Five Years from the Completion of the Works, and the Opening of the Railway for public Use.

Accommodation Works not to be required after Five Years.

74. Until the Company shall have made the Bridges or other proper Communications which they shall, under the Provisions herein, or in the special Act or any Act incorporated therewith, contained, have been required to make between Lands intersected by the Railway, and no longer, the Owners and Occupiers of such Lands, and any other Persons whose Right of Way shall be affected by the Want of such Communication, and their respective Servants, may at all Times freely pass and repass, with Carriages, Horses and other Animals, directly (but not otherwise) across the Part of the Railway made in or through their respective Lands, solely for the Purpose of occupying the same Lands, or for the Exercise of such Right of Way, and so as not to obstruct the Passage along the Railway, or to damage the same; nevertheless, if the Owner or Occupier of any such Lands have in his Arrangements with the Company received or agreed to receive Compensation for or on account of any such Communications, instead of the same being formed, such Owner or Occupier, or those claiming under him, shall not be entitled so to cross the Railway.

Owners, &c., to be allowed to cross Railway until Accommodation Works are made:

except where Compensation made.

75. If any Person omit to shut and fasten any Gate set up at either Side of the Railway, for the Accommodation of the Owners or Occupiers of the adjoining Lands, as soon as he, and the Carriage, Cattle or other Animals under his Care, have passed through the same,

Penalty on Persons omitting to fasten Gates.

he shall forfeit for every such Offence any Sum not exceeding Forty Shillings.

*Branch
Railways.
Private
Branch Rail-
ways may be
made, com-
municating
with the
Railway:*

76. *And be it enacted, That* this or the special Act shall not prevent the Owners or Occupiers of Lands adjoining to the Railway, or any other Persons, from laying down, either upon their own Lands or upon the Lands of other Persons, with the Consent of such Persons, any collateral Branches of Railway to communicate with the Railway, for the Purpose of bringing Carriages to or from or upon the Railway, but under and subject to the Provisions and Restrictions of an Act passed in the Sixth Year of the Reign of Her present Majesty, intituled, *An Act for the better Regulation of Railways, and for the Conveyance of Troops*^a; and the Company shall, if required, at the Expense of such Owners and Occupiers and other Persons, and subject also to the Provisions of the said last-mentioned Act, make Openings in the Rails, and such additional Lines of Rail as may be necessary for effecting such Communication, in Places where the Communication can be made with Safety to the Public, and without Injury to the Railway, and without Inconvenience to the Traffic thereon; and the Company shall not take any Rate or Toll or other Monies for the passing of any Passengers, Goods, or other Things along any Branch so to be made by any such Owner or Occupier or other Person; but this Enactment shall be subject to the following Restrictions and Conditions; (that is to say,)

*Restrictions
and Condi-
tions;*

No such Branch Railway shall run parallel to the Railway:

The Company shall not be bound to make any such Openings in any Place which they shall have set apart for any specific Purpose with which such

^a 5 & 6 Vic. c. 55, § 12, (IV. 12.)

Communication would interfere, nor upon any Inclined Plane or Bridge, nor in any Tunnel:

The Persons making or using such Branch Railways shall be subject to all Bye Laws and Regulations of the Company from Time to Time made with respect to passing upon or crossing the Railway, and otherwise; and the Persons making or using such Branch Railways shall be bound to construct, and from Time to Time, as Need may require, to renew, the offset Plates and Switches according to the most approved Plan adopted by the Company, and under the Direction of their Engineer.

Bye Laws
and Regula-
tions.

And with respect to Mines lying under or near the Railway, be it enacted as follows:

*Mines under
or near Rail-
way.*

77. The Company shall not be entitled to any Mines of Coal, Ironstone, Slate, or other Minerals, under any Land purchased by them, except only such Parts thereof as shall be necessary to be dug or carried away or used in the Construction of the Works, unless the same shall have been expressly purchased; and all such Mines, excepting as aforesaid, shall be deemed to be excepted out of the Conveyance of such Lands, unless they shall have been expressly named therein and conveyed thereby.

Company not
entitled to
Mines except
portions re-
quisite for
construction
of Railway,
or by pur-
chase.

78. If the Owner, Lessee, or Occupier of any Mines or Minerals lying under the Railway, or any of the Works connected therewith, or within the prescribed Distance, or, where no Distance shall be prescribed, Forty Yards therefrom, be desirous of working the same, such Owner, Lessee, or Occupier shall give to the Company Notice in Writing of his Intention so to do Thirty Days before the Commencement of working; and upon the Receipt of such Notice, it shall be lawful for the Company to cause such Mines to be inspected by any Person appointed by them for the Purpose; and if it appear to the Company that the working of such Mines or Minerals is likely to damage the Works of the

*Mines lying
under or
near the
Railway, not
to be worked,
if Company
willing to
purchase
them.*

*30 days'
Notice.*

Railway, and if the Company be willing to make compensation for such Mines or any Part thereof to Owner, Lessee, or Occupier thereof, then he shall work or get the same; and if the Company, and Owner, Lessee, or Occupier, do not agree as to Amount of such Compensation, the same shall be as in other Cases of disputed Compensation*.

If Company unwilling to purchase, Owner may work the Mines.

79. If before the Expiration of such Thirty Years the Company do not state their Willingness to work with such Owner, Lessee, or Occupier for the Payment of such Compensation, it shall be lawful for the Company to work the said Mines or any Part thereof for which the Company shall not have agreed to pay Compensation, so that the same be done in a Manner proper and necessary for the beneficial Working thereof, and according to the usual Manner of working such Mines in the District where the same shall be situate; and if any Damage or Obstruction be occasioned to the Railway or Works by improper Working of such Mines, the same shall forthwith be repaired or removed, as the Case may require, and such Damage made good, by the Owner, Lessee, or Occupier of such Mines or Minerals, and at his or her Expense; and if such Repair or Removal be not forthwith done,—or, if the Company shall so think fit, waiting for the same to be done by such Owner, Lessee, or Occupier,—it shall be lawful for the Company to execute the same, and recover from such Owner, Lessee, or Occupier the Expense occasioned thereby, by action in any of the Superior Courts.

Damage to Railway or Works to be made good.

Mining Communications.

80. If the Working of any such Mines under or near any Railway or Works, or within the above-mentioned distance^b therefrom, be prevented as aforesaid by reason of apprehended Injury to the Railway, it shall be lawful for the respective Owners, Lessees, and Occupiers of such Mines, and whose Mines shall extend so near on both Sides of the Railway, to cut and make

* See under Compensation, &c. in Index.

and so many Airways, Headways, Gateways, or Water Levels through the Mines, Measures, or Strata, the working whereof shall be so prevented, as may be requisite to enable them to ventilate, drain, and work their said Mines; but no such Airway, Headway, Gateway, or Water Level shall be of greater Dimensions or Section than the prescribed Dimensions and Sections, and where no Dimensions shall be described^a, not greater than Eight Feet wide and Eight Feet high; nor shall the same be cut or made upon any Part of the Railway or Works, or so as to injure the same, or to impede the Passage thereon.

81. The Company shall from Time to Time pay to the Owner, Lessee, or Occupier of any such Mines extending so as to lie on both Sides of the Railway, all such additional Expenses and Losses as shall be incurred by such Owner, Lessee, or Occupier, by reason of the Severance of the Lands lying over such Mines by the Railway, or of the continuous working of such Mines being interrupted as aforesaid, or by reason of the same being worked in such Manner and under such Restrictions as not to prejudice or injure the Railway, and for any Minerals not purchased by the Company which cannot be obtained by reason of making and maintaining the Railway; and if any Dispute or Question shall arise between the Company and such Owner, Lessee, or Occupier as aforesaid, touching the Amount of such Losses or Expenses, the same shall be settled by Arbitration^b.

Company to make Compensation for Injury done to Mines by severance of lands, &c.

82. If any Loss or Damage be sustained by the Owner or Occupier of the Lands lying over any such Mines the working whereof shall have been so prevented as aforesaid (and not being the Owner, Lessee, or Occupier of such Mines), by reason of the making of any such Airway or other Work as aforesaid, which or any like Work would not have been necessary to be made,

Compensation for damage to lands lying over mines by Airways or other works.

^a "Described": sic; prescribed?

^b Provisions as to Arbitration, § 126 *et seq.* (p. 184 &c.)

but for the working of such Mines having been so prevented as aforesaid, the Company shall make full Compensation to such Owner or Occupier of the Surface Lands for the Loss or Damage so sustained by him.

Power to Company to enter and inspect the working of Mines to ascertain whether injurious to Railway.

83. For better ascertaining whether any such Mines are being worked or have been worked so as to damage the Railway or Works, it shall be lawful for the Company, after giving Twenty-four Hours Notice in Writing, to enter upon any Lands through or near which the Railway passes wherein any such Mines are being worked or are supposed so to be, and to enter into and return from any such Mines or the Works connected therewith; and for that Purpose it shall be lawful for them to make Use of any Apparatus or Machinery belonging to the Owner, Lessee, or Occupier of such Mines, and to use all necessary Means for discovering the Distance from the Railway to the Parts of such Mines which are being worked or about so to be.

Penalty for Refusal to allow inspection.

84. If any such Owner, Lessee, or Occupier of any such Mine shall refuse to allow any Person appointed by the Company for that Purpose to enter into and inspect any such Mines or Works in manner aforesaid, every Person so offending shall for every such Refusal forfeit to the Company a Sum not exceeding Twenty Pounds.

If Mines improperly worked, the Company may require means to be adopted for the Safety of the Railway.

85. If it appear that any such Mines have been worked contrary to the Provisions of this or the special Act, the Company may, if they think fit, give Notice to the Owner, Lessee, or Occupier thereof to construct such Works and to adopt such Means as may be necessary or proper for making safe the Railway, and preventing Injury thereto; and if after such Notice, any such Owner, Lessee, or Occupier do not forthwith proceed to construct the Works necessary for making safe the Railway, the Company may themselves construct such Works, and recover the Expense thereof from such Owner, Lessee, or Occupier by Action in any of the Superior Courts.

and with respect to the Carrying of Passengers and Goods upon the Railway, and the Tolls to be taken thereon, be it enacted as follows:

Passengers and Goods, Carriage on Railway.

It shall be lawful for the Company to use and employ locomotive Engines or other moving Power, Carriages and Waggon to be drawn or propelled thereby; and to carry and convey upon the Railway all

Locomotive Power, Carriages, &c.: Carriage of passengers, goods, &c.

Passengers and Goods as shall be offered to them for that Purpose, and to make such reasonable Charges in respect thereof, as they may from Time to Time determine upon, not exceeding the Tolls by the special Act authorized to be taken by them.

Tolls.

It shall be lawful for the Company from Time to Time to enter into any Contract with any other Company, being the Owners or Lessees or in possession of any other Railway, for the Passage over or along the same by the special Act authorized to be made, of Locomotives, Engines, Coaches, Waggon, or other Carriages of any other Company, or which shall pass over any other Railway,—or for the Passage over any other Line of Railway of any Engines, Coaches, Waggon or other Carriages of the Company, or which shall pass over their Railway,—upon the Payment of such Tolls and under such Conditions and Restrictions as may be mutually agreed upon; and for the Purpose aforesaid, it shall be lawful for the respective Parties to enter into any Contract for the Division or Apportionment of the Tolls to be taken upon their respective Railways.

Company empowered to contract with other Companies, for their carriages, &c. to pass over Railway.

Provided always, That no such Contract as aforesaid shall in any Manner alter, affect, increase, or diminish any of the Tolls which the respective Companies, Parties to such Contracts, shall for the Time being respectively authorized and entitled to demand or receive from any Person or any other Company; but that no other Persons and Companies shall, notwithstanding

Contracts not to affect other Persons not Parties thereto; nor Tolls to public.

to be liable
to a greater
Extent than
Common
Carriers, but
entitled to
same pro-
tection.

Power to
vary Tolls.

Tolls to be
charged
equally to all
Persons,

extend to charge or make liable the Com
or in any other Case than where, according
of the Realm, Stage Coach Proprietors a
Carriers would be liable, nor shall extend in
to deprive the Company of any Protection
which Common Carriers or Stage Coach
may be entitled to; but, on the contrary, t
shall at all Times be entitled to the Ben
such Protection and Privilege^b.

90. And whereas it is expedient that t
should be enabled to vary the Tolls upon
so as to accommodate them to the Circums
Traffic, but that such Power of varying shoul
for the Purpose of prejudicing or favourin
Parties^a, or for the Purpose of collusively
creating a Monopoly, either in the Hands of
or of particular Parties; it shall be lawful,
the Company, subject to the Provisions an
herein and in the special Act contained, f
Time to alter or vary the Tolls by the spe
thorized to be taken, either upon the Whole
particular Portions of the Railway, as the
fit; provided that all such Tolls be at all T
equally^a to all Persons, and after the same l

ion or Advance in any such Tolls shall be made or directly or indirectly in favour of or against any particular Company or Person travelling upon or using Railway*.

.. And whereas Authority has been given by various Acts of Parliament to Railway Companies, to demand Tolls for the Conveyance of Passengers and Goods and other Services over the Fraction of a Mile equal to the Toll which they are authorized to demand for One Mile; therefore, in Cases in which any Railway shall be amalgamated with any other adjoining Railway or Railways, such Tolls shall be calculated and imposed at such Rates as if such amalgamated Railways had originally formed One Line of Railway.

Fractions of Miles:
How Tolls to be calculated where Railways amalgamated.

.. It shall not be lawful for the Company at any Time to demand or take a greater Amount of Toll, or to demand any greater Charge for the Carriage of Passengers and Goods, than they are by this and the special Act authorized to demand; and upon Payment of the Tolls from Time to Time demandable, all Companies and Persons shall be entitled to use the Railway, with Engines and Carriages properly constructed as by this and the special Act directed, subject nevertheless to the Provisions and Restrictions of the said Act of the Sixth Year of our present Majesty, intituled *An Act for the better Regulation of Railways, and for the Conveyance of Passengers and Goods*, and to the Regulations to be from Time to Time made by the Company by virtue of the Powers in that behalf hereby and by the special Act conferred upon them.

Any Parties entitled to use Railway, on Payment of authorized Tolls.

.. A List of all the Tolls authorized by the special Act to be taken, and which shall be exacted by the Company, shall be published by the same being painted upon one or more Toll Boards or more, in distinct Black Letters on a White Ground, or White Letters on a Black Ground, the same being printed in legible Characters on

List of Tolls to be exhibited on a Board.

* Note A, in p. 170.

8 Vic. c. 55, § 11, 12, 16, 17, 20, &c. (IV. 11, &c.)

at 1 mile
or 1/2 miles.

the whole Line thereof, at the Distance
of a Mile from each other, with Number
scribed thereon denoting such Distances.

Tolls not to
be taken
unless Toll
Board ex-
hibited and
Milestones
set up.

95. No Tolls shall be demanded on
Company for the Use of the Railway
at which the Boards herein-before di-
hibited* shall not be so exhibited, or at
stones herein-before directed to be set up
shall not be so set up and maintained; and
son wilfully pull down, deface, or de-
Board or Milestone, he shall forfeit a Sum
Five Pounds for every such Offence.

Penalties.

Tolls, how to
be paid:

96. The Tolls shall be paid to such
such Places upon or near to the Railw
Manner and under such Regulations, a
shall, by Notice to be annexed to the
appoint.

Public
Notice.

In default of
Payment of
Tolls, Goods,
&c. may be
detained and
sold:

97. If, on Demand, any Person fail to
due in respect of any Carriage or Goods
lawful for the Company to detain and sell
or all or any Part of such Goods, or, if
have been removed from the Premises
to detain and sell any other Carriages
such Premises belonging to the Party li

Company to recover any such Tolls by Action

Every Person being the Owner or having the Charge of any Carriage or Goods passing or being upon any Railway shall, on Demand, give to the Collector of Tolls at the Places where he attends for the Purpose of collecting Goods or of collecting Tolls for the Part of the Railway on which such Carriage or Goods may have been or be about to travel, an exact Account in Writing signed by him, of the Number or Quantity of Goods conveyed by any such Carriage, and of the Place on the Railway from which such Carriage or Goods have set out or are about to set out, and at what Time the same are intended to be unloaded or taken off the Railway; and if the Goods conveyed by any such Carriage, or brought for Conveyance as aforesaid, be liable to the Payment of different Tolls, then such Owner or other Person shall specify the respective Rates or Quantities thereof liable to each or any of such Tolls.

Bill of Lading, &c. to be given to Company, when required.

If any such Owner or other such Person fail to give such Account, or to produce his Way-bill or Bill of Lading, to such Collector or other Officer or Servant of the Company demanding the same, or if he give a false Account, or if he unload or take off any Part of the Goods or Goods at any other Place than shall be mentioned in such Account, with Intent to avoid the Payment of any Tolls payable in respect thereof, he shall for every such Offence forfeit to the Company a Sum not exceeding Ten Pounds for every Ton of Goods or for any Parcel not exceeding One Hundred Weight, and so in proportion for any less Quantity of Goods than One Ton, or for any Parcel exceeding One Hundred Weight, (as the Case may be,) which shall be in addition to the Toll to which such Goods may be liable.

Penalty for not giving Account of Lading, or for giving false account, &c.

If any Dispute arise concerning the Amount of Tolls due to the Company, or concerning the

Proceedings in Case of Disputes on

to Amount
of Tolls
chargeable.

Charges occasioned by any Detention or Sale under the Provisions herein or in the special Act obtained, the same shall be settled by a Justice; and it shall be lawful for the Company in the meantime to detain the Goods, or (if the Case so require) to sell the proceeds of the Sale thereof.

Disputes
as to
Weights, &c.

101. If any Difference arise between any Inspector or other Officer or Servant of the Company and any Owner of or Person having the Charge of any Carriage passing or being upon the Railway, or of any Goods conveyed or to be conveyed by such Carriage, respecting the Weight, Quantity, Quality, or Nature of such Goods, such Collector or other Officer may detain such Carriage or Goods, and examine, weigh, measure, or otherwise measure the same; and if, upon such Measuring or Examination, such Goods appear to be of a greater Weight or Quantity or of other Nature than shall have been stated in the Account given by the Person who shall have given such Account, then the Person who shall have given such Account shall pay, and the Owner of such Carriage and the respective Owners of such Goods, shall also, at the Option of the Company, be liable to pay, the Costs of such measuring and examining; but if such Goods appear to be of the same or less Weight or Quantity than and of the same Nature as shall have been stated in such Account^a, then the Company shall pay the Costs, and they shall also pay to such Owner of such Carriage having Charge of such Carriage, and to the respective Owners of such Goods, such Damage (if any) which shall appear to any Justice, on a summary Application^b made for that Purpose, to have arisen from such Detention.

Toll Collec-
tor to be
just in his
weighing.
Detention of
Goods.

102. If at any Time it be made to appear to any Justice, upon the Complaint of the Company, that any such Detention, measuring, or examining of

^a "Thereof." *sic*, the word cannot be meant to refer to the antecedent. The provision would seem to have been intended to apply to the charges occasioned by the detention or sale of Carriages &c. &c.
^b § 98, 99.

Goods, as herein-before mentioned, was without reasonable Ground, or that it was vexatious on the Part of the Collector or other Officer, then the Collector or other Officer shall himself pay the Costs of such Detention, Measuring, and the Damage occasioned thereby; and in default of immediate Payment of any such Costs or Damage, the same may be recovered by Distress of the Goods of such Collector, and such Justice shall issue a Warrant accordingly.

If any Person travel or attempt to travel in any Carriage of the Company, or of any other Company or Person using the Railway, without having previously paid his Fare, and with Intent to avoid Payment thereof, or if any Person, having paid his Fare for a certain Distance, knowingly and wilfully proceed in any such Carriage beyond such Distance, without previously paying the additional Fare for the additional Distance, or if any Person, with Intent to avoid Payment thereof,—or if any Person knowingly and wilfully refuse or neglect, on being asked at the Point to which he has paid his Fare, to pay the additional Fare for a Carriage,—every such Person shall for every such Offence forfeit to the Company a Sum not exceeding Five Shillings.

Penalty on
Passengers
fraudulently
travelling
without pay-
ing proper
Fare, &c.

If any Person be discovered, either in or after committing any such Offence, or attempting to commit any such Offence, or having committed any such Offence, or attempting to commit any such Offence, preceding the Enactment mentioned, all Officers, Constables, and other Persons on behalf of the Company, or of any other Company or Party as aforesaid, and all Constables, Gaolers, and Peace Officers, may lawfully arrest and detain such Person, until he can be taken before some Justice, or until he be discharged by due Course of Law.

Detention of
Offenders.

No Person shall be entitled to carry, or to require any Person to carry, upon the Railway, any Quantity of Vitriol, Gunpowder, Lucifer Matches, or any Goods which, in the Judgment of the Company, shall be of a dangerous Nature; and if any Person shall carry upon the Railway any such Goods, without distinctly marking their Nature on the Outside of the Package

Penalty for
bringing
dangerous
Goods on the
Railway.

On Removal
of Toll
Collector,
&c., matters
in his pos-
session to be
delivered up
to Company.

may suspect to contain goods or a danger
or require the same to be opened to ascertain
106. If any Collector of Tolls or other
employed by the Company be discharged or
from his Office, or die, abscond, or absent
if such Collector or other Officer, or the Wife
or any of the Family or Representatives
Collector or other Officer, refuse or neglect
Days Notice in Writing for that Purpose,
to the Company, or to any Person appointed
for that Purpose, any Station, Dwelling House
or other Building with its Appurtenances, or
Papers, or other Matters belonging to the
the Possession or Custody of any such
Officer at the Occurrence of any such Event
said, then, upon Application being made
pany to any Justice, it shall be lawful for
to order any Constable, with proper Assistance
upon such Station or other Building, and to
Person found therein, and to take Possession
and of any such Books, Papers, or other
to deliver the same to the Company, or
appointed by them for that Purpose.

Annual Ac-
count to be

107. And be it enacted, That the Company

and by the Auditors; and shall, if required, transmit a Copy of the said Account, free of Charge, to the Overseers of the Poor^a of the several Parishes through which the Railway shall pass, and also to the Clerks of the Peace of the Counties through which the Railway shall pass, on or before the Thirty-first Day of *January* then next; which last-mentioned Account shall be open to the Inspection of the Public at all seasonable Hours, on Payment of the Sum of One Shilling for every such Inspection: Provided always, that if the said Company shall omit to prepare or transmit such Account as aforesaid, if required so to do by any such Clerk of the Peace or Overseers of the Poor^a, they shall forfeit for every such Omission the Sum of Twenty Pounds.

And open to inspection ;

Fee ;

Penalty.

And *with respect to the regulating of the Use of Bye Laws. the Railway^b*, be it enacted as follows:

108. It shall be lawful for the Company, from Time to Time, subject to the Provisions and Restrictions in this and the special Act contained, to make Regulations for the following Purposes; that is to say,

Company may make regulations :

For regulating the Mode by which and the Speed at which Carriages using the Railway are to be moved or propelled;

Speed, &c. ;

For regulating the Times of the Arrival and Departure of any such Carriages;

Time-Table.

For regulating the loading or unloading of such Carriages, and the Weights which they are respectively to carry;

Loading, &c. ;

For regulating the Receipt and Delivery of Goods and other Things which are to be conveyed upon such Carriages;

Goods ;

For preventing the Smoking of Tobacco, and the Commission of any other Nuisance, in or upon such

Smoking and other Nuisances ;

^a i.e., Poor Law Guardians and Clerk of Union in Ireland, § 3; there being no Overseers of the Poor of Parishes in Ireland.

^b See also powers to make Bye Laws or Regulations for certain purposes, under Companies Clauses Consolidation Act (VI. 124 *et seq.*)

Carriages, or in any of the Stations or Premises occupied by the Company;

Generally :

And, generally, for regulating the travelling upon, or using and working of the Railway:

but not to stop traffic.

But no such Regulation shall authorize the closing of the Railway, or prevent the Passage of Engines or Carriages on the Railway^a, at reasonable Times, except at any Time when in consequence of any of the Works being out of Repair, or from any other sufficient Cause it shall be necessary to close the Railway or any Part thereof.

Power to make Regulations by Bye Laws.

109. For better enforcing the Observance of all or any of such Regulations, it shall be lawful for the Company, subject to the Provisions of an Act passed in the Fourth Year of the Reign of Her present Majesty, intituled *An Act for regulating Railways*^b, to make Bye Laws, and from Time to Time to repeal or alter such Bye Laws, and make others, provided that such Bye Laws be not repugnant to the Laws of that Part of the United Kingdom where the same are to have Effect, or to the Provisions of this or the special Act; and such Bye Laws shall be reduced into Writing, and shall have affixed thereto the Common Seal of the Company; and any Person offending against any such Bye Law shall forfeit, for every such Offence, any Sum not exceeding Five Pounds, to be imposed by the Company in such Bye Laws as a Penalty for any such Offence; and if the Infraction or Non-observance of any such Bye Law or other such Regulation as aforesaid, be attended with Danger or Annoyance to the Public, or Hindrance to the Company in the lawful Use of the Railway, it shall be lawful for the Company summarily to interfere to obviate or remove such Danger, Annoyance, or Hindrance, and that without Prejudice to any Penalty incurred by the Infraction of any such Bye Law.

Publication of Bye Laws.

110. The Substance of such last-mentioned Bye

^a Under § 87 *et seq.*, powers are given for different Companies to use the Railway and bring Engines and Carriages thereon (p. 169.) See also § 115 *et seq.*

^b 3 & 4 Vic. c. 97, § 7 *et seq.* (III. p. 17.)

Laws, when confirmed or allowed according to the Provisions of any Act in force regulating the Allowance or Confirmation of the same^a, shall be painted on Boards, or printed on Paper and pasted on Boards, and hung up and affixed and continued on the Front or other conspicuous Part of every Wharf or Station belonging to the Company, according to the Nature or Subject Matter of such Bye Laws respectively, and so as to give public Notice thereof to the Parties interested therein or affected thereby; and such Boards shall from Time to Time be renewed as often as the Bye Laws thereon or any Part thereof shall be obliterated or destroyed; and no Penalty imposed by any such Bye Law shall be recoverable unless the same shall have been published and kept published in manner aforesaid^b.

111. Such Bye Laws, when so confirmed, published, and affixed, shall be binding upon and be observed by all Parties, and shall be sufficient to justify all Persons acting under the same; and for Proof of the Publication of any such Bye Laws it shall be sufficient to prove that a printed Paper or painted Board, containing a Copy of such Bye Laws, was affixed and continued in manner by this Act directed; and in case of its being afterwards displaced or damaged, then that such Paper or Board was replaced as soon as conveniently might be.

Bye Laws to be binding on all Parties ;

Evidence of Bye Laws.

And *with respect to Leasing the Railway*^c, be it enacted as follows :

Leasing of Railway.

112. Where the Company shall be authorized by the special Act to lease the Railway or any Part thereof to any Company or Person, the Lease to be executed in pursuance of such Authority shall contain all usual and proper Covenants on the Part of the Lessee for main-

Covenants in Lease of Railway.

^a See 3 & 4 Vic. c. 97, § 7-10, under which the sanction of the Board of Trade is required for Bye Laws, which may also be disallowed by them (III. 7-10).

^b And see § 143, (p. 190.)

^c By another act of the same session, 1845, (8 & 9 Vic. c. 96,) the power of leasing, selling, or transferring a Railway under any act of the same session is restrained, and limited to cases in which a special provision is made by act of Parliament in each case : (post, IX.)

When Rail-
way leased,
Powers to be
exercised by
the Lessee,
under same
Acts as Les-
sors subject
to.

113. Such Lease shall entitle the Com-
pany to whom the same shall be granted, to the
Railway or Portion of Railway comp-
rised in such Lease, and during the Continuance of any such
Lease, all the Powers and Privileges granted to and
otherwise be exercised and enjoyed by the
Directors thereof, or their Officers, Agents,
and Servants, by virtue of this or the special Act
relating to the Possession, Enjoyment, and Management
of the Railway, or of the Part thereof comprised in
such Lease, and the Tolls to be taken thereon, shall be
exercised and enjoyed by the Lessee, and the Officers and
Agents of such Lessee, under the same Regulations
and Conditions as are by this or the special Act imposed
on the Company, and their Directors, Officers, Agents,
and Servants, and such Lessee shall, with respect to the
Railway comprised in such Lease, be subject to all the
Provisions by this or the special Act imposed on the Company.

*Carriages
and Engines.*

*And with respect to the Engines and Carriages
brought on the Railway, be it enacted as follows:*

*Engines to
consume
their Smoke:
Penalty.*

114. Every locomotive Steam Engine brought
on the Railway shall, if it use Coal or other
fuel emitting Smoke, be constructed on the Principle
of consuming its own Smoke, and so as to consume its own
Smoke.

upon or used on the Railway unless the same have first been approved of by the Company^a; and within Fourteen Days after Notice given to the Company by any Party desirous of bringing any such Engine on the Railway, the Company shall cause their Engineer or other Agent to examine such Engine at any Place within Three Miles Distance from the Railway to be appointed by the Owner thereof, and to report thereon to the Company; and within Seven Days after such Report, if such Engine be proper to be used on the Railway, the Company shall give a Certificate to the Party requiring the same, of their Approval of such Engine; and if at any Time the Engineer or other Agent of the Company report that any Engine used upon the Railway is out of repair, or unfit to be used upon the Railway, the Company may require the same to be taken off, or may forbid its Use upon the Railway until the same shall have been repaired to the Satisfaction of the Company; and upon the Engine being so repaired, the Company shall give a Certificate to the Party requiring the same, of their Approval of such Engine; and if any Difference of Opinion arise between the Company and the Owner of any such Engine as to the Fitness or Unfitness thereof for the Purpose of being used on the Railway, such Difference shall be settled by Arbitration.

approved by the Company; and Certificate of Approval given by them :

Damaged or Unfit Engines to be removed :

Arbitration as to Fitness.

116. If any Person, whether the Owner or other Person having the Care thereof, bring or use upon the Railway any locomotive or other Engine, or any moving Power^a, without having first obtained such Certificate of Approval as aforesaid,—or if, after Notice given by the Company to remove any such Engine from the Railway, such Person do not forthwith remove the same,—or if, after Notice given by the Company not to use any such Engine on the Railway, such Person do so use such Engine, without having first repaired the same to the Satisfaction of the Company, and obtained such Certi-

Penalty for using uncertified or Improper Engines, &c.

^a Under § 87 *et seq.*, powers are given for different Companies to use the Railway and bring Engines and Carriages thereon (p. 169 *et seq.*)

ificate of Approval,—every such Person shall, in any of the Cases aforesaid, forfeit to the Company a Sum not exceeding Twenty Pounds; and in any such Case, it shall be lawful for the Company to remove such Engine from the Railway.

Carriages to
be according
to Company's
Regulations:

117. No Carriage shall pass along or be upon the Railway (except in directly crossing the same, as herein^a or by the special Act authorized,) unless such Carriage be at all Times, so long as it shall be used or shall remain on the Railway, of the Construction and in the Condition which the Regulations of the Company for the Time being shall require^b; and if any Dispute arise between the Company and the Owner of any such Carriage as to the Construction or Condition thereof, in reference to the then existing Regulations of the Company, such Dispute shall be settled by Arbitration.

Arbitration
in case of
Dispute.

Regulations
as to Car-
riages:

118. The Regulations from Time to Time to be made by the Company respecting the Carriages to be used on the Railway^b shall be drawn up in Writing, and be authenticated by the Common Seal of the Company, and shall be applicable alike to the Carriages of the Company and to the Carriages of other Companies or Persons using the Railway; and a Copy of such Regulations shall, on Demand, be furnished by the Secretary of the Company to any Person applying for the same.

copies to be
furnished on
demand.

Penalty for
using impro-
per Carriages.

119. If any Carriage, not being of such Construction or in such Condition as the Regulations of the Company for the Time being require, be made to pass or be upon any Part of the Railway (except as aforesaid^a), the Owner thereof, or any Person having for the Time being the Charge of such Carriage, shall forfeit to the Company a Sum not exceeding Ten Pounds for every such Offence; and it shall be lawful for the Company to remove any such Carriage from the Railway.

Name, &c.,
of Owners of
Carriages to

120. The respective owners of Carriages using the Railway shall cause to be entered with the Secretary or

^a See § 76 (p. 164-5).

^b See § 108, and note ^a thereon, in p. 178.

^c § 117: carriages crossing the line.

other Officer of the Company appointed for that Purpose the Names and Places of Abode of the Owners of such Carriages respectively, and the Numbers, Weights, and Gauges of their respective Carriages; and such Owner shall also, if so required by the Company, cause the same Particulars to be painted in legible Characters on some conspicuous Part of the Outside of every such Carriage*, so as to be always open to View; and every such Owner shall, whenever required by the Company, permit his Carriage to be weighed, measured, or gauged at the Expense of the Company.

be entered
with Com-
pany and
exhibited on
Carriages:

121. If the Owner of any Carriage fail to comply with the Requisitions contained in the preceding Enactment, it shall be lawful for the Company to refuse to allow such Carriage to be brought upon the Railway, or to remove the same therefrom until such Compliance.

Or Carriages
may be
removed.

122. If the loading of any Carriage using the Railway be such as to be liable to Collision with other Carriages properly loaded, or to be otherwise dangerous, or if the Person having the Care of any Carriage or Goods upon the Railway suffer the same or any Part thereof to remain on the Railway so as to obstruct the Passage or working thereof, it shall be lawful for the Company to cause such Carriage or Goods to be unloaded and removed, in any Manner proper for preventing such Collision or Obstruction, and to detain such Carriage or Goods, or any Part thereof, until the Expenses occasioned by such Unloading, Removal, or Detention be paid.

Carriages
improperly
loaded, or
dangerous, or
obstructing
the Railway,
may be un-
loaded,
removed, or
detained.

123. The Company shall not be liable for any Damage or Loss occasioned by any such Unloading, Removal, or Detention as aforesaid, except for Damage wilfully or negligently done to any Carriage or Goods so unloaded, removed, or detained; nor shall they be liable for the safe Custody of any such Carriage or Goods so detained,

Company not
to be liable
for Damage
by such un-
loading, &c.

* Under the act of 1838, for regulating the conveyance of Mails by Railway, (1 & 2 Vic. c. 98, § 10) the Royal Arms are to be painted on the outside of carriages provided for the service of the post office, in lieu of the name of the owner and number of the Carriage or other requisites: (I. 10, p. 8.)

unless the same be wrongfully detained by them, and then only for so long a Time as the same shall have been so wrongfully detained.

Owners of
Engines, &c.,
liable for
Damage done
by them or
by their
Servants:

124. The respective Owners of Engines and Carriages passing or being upon the Railway shall be answerable for any Trespass or Damage done by their Engines or Carriages, or by any of the Servants or Persons employed by them, to or upon the Railway, or the Machinery or Works belonging thereto, or to or upon the Property of any other Person; and every such Servant or other Person may lawfully be convicted of such Trespass or Damage before any Two Justices of the Peace, either by the Confession of the Party offending, or upon the Oath of some credible Witness; and upon such Conviction every such Owner shall pay to the Company, or to the Person injured, as the Case may be, the Damage to be ascertained by such Justices, so that the same do not exceed Fifty Pounds.

Penalty.

Owners may
recover from
Servants.

125. It shall be lawful for any Owner of an Engine or Carriage who shall pay the Amount of any Damage caused by the Misfeasance or Negligence of any Servant or other Person employed by him, to recover the Amount so paid by him from such Servant or other Person, by the same Means as the Company are enabled to recover the Amount of such Damage from the Owner of any Engine or Carriage*.

Arbitration.

And *with respect to the Settlement of Disputes by Arbitration*, be it enacted as follows:

Appointment
of Arbitrators
where Questions
are to
be settled by
Arbitration:

126. When any Dispute authorized or directed by this or the special Act, or any Act incorporated therewith, to be settled by Arbitration, shall have arisen, then unless both Parties shall concur in the Appointment of a single Arbitrator, each Party, on the Request of the other Party shall nominate and appoint an Arbitrator to whom such Dispute shall be referred; and every Appointment of an Arbitrator shall be made on

mode of
appointment;

rt of the Company, under the Hand of the Se-
 or any Two of the Directors of the Company,
 the Part of any other Party under the Hand of
 Party, or if such Party be a Corporation aggre-
 under the Common Seal of such Corporation; and
 Appointment shall be delivered to the Arbitrators,
 shall be deemed a Submission to Arbitration* on Submission.
 rt of the Party by whom the same shall be made;
 er any such Appointment shall have been made,
 Party shall have Power to revoke the same
 t the Consent of the other, nor shall the Death
 or Party operate as a Revocation; and if, for the
 of Fourteen Days after any such Dispute shall
 risen, and after a Request in Writing, in which
 stated the Matters so required to be referred to
 tion, shall have been served by the one Party
 other Party to appoint an Arbitrator, such last-
 ed Party fail to appoint such Arbitrator, then
 ch Failure the Party making the Request, and
 himself appointed an Arbitrator, may appoint
 bitrator to act on behalf of both Parties; and
 bitrator may proceed to hear and determine the
 which shall be in dispute; and in such Case the
 or Determination of such single Arbitrator shall

If before the Matters so referred shall be deter-
 any Arbitrator appointed by either Party die, or
 incapable to act, the Party by whom such
 tor was appointed may nominate and appoint in
 some other Person to act in his Place; and if,
 Space of Seven Days after Notice in Writing
 other Party for that Purpose, he fail to do so,
 maining or other Arbitrator may proceed *ex parte*;
 any Arbitrator so to be substituted as aforesaid
 ave the same Powers and Authorities as were
 in the former Arbitrator at the Time of such his
 Incapacity as aforesaid.

In case of
 Vacancy,
 another Ar-
 bitrator to be
 appointed;
 or remaining
 Arbitrator
 to proceed
ex parte.

* And may be made a rule of Court; § 136, (p. 187.)

Appointment
of Umpire:

128. Where more than One Arbitrator shall have been appointed, such Arbitrators shall, before they proceed upon the Matters referred to them, nominate, at any point, by Writing under their Hands, an Umpire to decide on any such Matters on which they shall differ, or which shall be referred to him under the provisions of the special Act; and if such Umpire shall be incapable to act, they shall forthwith after the death or Incapacity appoint another Umpire in his place; and the Decision of every such Umpire on the Matters referred to him shall be final.

Umpire's
decision final.

In default of
Arbitrators,
Board of
Trade to
appoint
Umpire.

129. If in either of the Cases aforesaid, the Arbitrators shall refuse, or shall, for Seven Days neglect, to act, upon Request of either Party to such Arbitration to appoint an Umpire, the Board of Trade may, upon Application of either Party to such Arbitration, appoint an Umpire; and the Decision of such Umpire on the Matters on which the Arbitrators shall differ, or which shall be referred to him under this or the special Act, shall be final.

Death, &c.,
of Arbitrator
where only
one ap-
pointed.

130. If, where a single Arbitrator shall have been appointed, such Arbitrator shall die, or become incapable to act, before he shall have made his Award, the Matters referred to him shall be determined by Arbitration, according to the Provisions of this or the special Act, in the same Manner as if such Arbitrator had not been appointed.

If either
Arbitrator
refuse or
neglect to
act, the other
to proceed
ex parte.

131. If, where more than One Arbitrator shall have been appointed, either of the Arbitrators shall, for Seven Days neglect, to act, the other Arbitrator may proceed *ex parte*; and the Decision of such Arbitrator shall be as effectual as if he had been appointed by both Parties.

If Arbitra-
tors fail to
make Award
within 21
Days, the
Matter to
go to the
Umpire.

132. If, where more than One Arbitrator shall have been appointed, and where neither of them shall, for Seven Days neglect, to act as aforesaid, such Arbitrators may, at any point, by Writing under their Hands, make their Award within Twenty-one Days after the Day on which the last of such Arbitrators shall have been appointed, or within such extended Time

I have been appointed for that Purpose by both Arbitrators under their Hands, the Matter referred in shall be determined by the Umpire to be applied as aforesaid.

The said Arbitrators or their Umpire may call for Production of any Documents in the Possession or Power of either Party which they or he may think necessary for determining the Question in dispute, and examine the Parties or their Witnesses on Oath, administer the Oaths necessary for that Purpose.

Arbitrators and Umpire may call for documents, and administer Oaths.

Before any Arbitrator or Umpire shall enter into consideration of any Matters referred to him, he or she in the Presence of a Justice, make and subscribe the following Declaration; that is to say,

Declaration to be made by Arbitrator and Umpire.

I, do solemnly and sincerely declare, That I will fully and honestly, and to the best of my Skill and Power, hear and determine the Matters referred to me under the Provisions of the Act [*naming the special A.B.*]

Made and subscribed in the Presence of _____, each Declaration shall be annexed to the Award made; and if any Arbitrator or Umpire, having such Declaration, shall wilfully act contrary thereto, he shall be guilty of a Misdemeanor.

Penalty.

Except where by this or the special Act, or any Act incorporated therewith, it shall be otherwise provided, the Costs of and attending every such Arbitration shall be determined by the Arbitrators, shall be in the Discretion of the Arbitrators.

Costs to be in Discretion of Arbitrators.

The Submission* to any such Arbitration may be made by a Rule of any of the Superior Courts, on the Application of either of the Parties.

Submission to Arbitration, a Rule of Court.

No Award made with respect to any Question referred to Arbitration, under the Provisions of this or the special Act, shall be set aside for Irregularity or Matter of Form.

Award not to be set aside for informality.

*Notices, &c.
Service of
Notices, &c.
upon Com-
pany.*

138. *And be it enacted, That any Summons or Notice, or any Writ, or other Proceeding at Law or in Equity, requiring to be served upon the Company, may be served by the same being left at or transmitted through the Post directed to the principal Office of the Company, or One of their principal Offices where there shall be more than One, or being given personally to the Secretary; or in case there be no Secretary, then by being given to any One Director of the Company.*

*Damages.
Tender of
Amends.*

139. *And be it enacted, That if any Party shall have committed any Irregularity, Trespass, or other wrongful Proceeding in the Execution of this or the special Act, or any Act incorporated therewith, or by virtue of any Power or Authority thereby given, and if before Action brought in respect thereof such Party make Tender of sufficient Amends to the Party injured, such last-mentioned Party shall not recover in any such Action; and if no such Tender shall have been made, it shall be lawful for the Defendant, by Leave of the Court where such Action shall be pending, at any Time before Issue joined, to pay into Court such Sum of Money as he shall think fit, and thereupon such Proceedings shall be had as in other Cases where Defendants are allowed to pay Money into Court.*

*Recovery of
Damages
and Penalties.*

And with respect to the Recovery of Damages not specially provided for, and of Penalties, and to the Determination of any other Matter referred to Justices, be it enacted as follows:

*Provision for
ascertaining
and recover-
ing Costs or
Damages not
otherwise
provided for.*

140. In all Cases where any Damages, Costs or Expenses are by this or the special Act, or any Act incorporated therewith, directed to be paid, and the Method of ascertaining the Amount or enforcing the Payment thereof is not provided for, such Amount, in case of Dis-

* § 140-158 of this act are generally similar to § 142-160 of the Companies Clauses Consolidation Act (VI. 142 *et seq.*)

be ascertained and determined by Two
 1 if the Amount so ascertained be not paid
 any or other Party liable to pay the same,
 1 Days after Demand, the Amount may be
 7 Distress of the Goods of the Company or **Distress**
 1 liable as aforesaid; and the Justices by **against Com-**
 1 me shall have been ordered to be paid, or **pany.**
 em, or any other Justice, on Application,
 1 eir or his Warrant accordingly.

sufficient Goods of the Company cannot be
 on to levy any such Damages, Costs and Ex-
 ble by the Company, the same may, if the
 reof do not exceed Twenty Pounds, be re-
 Distress of the Goods of the Treasurer of
 y; and the Justices aforesaid, or either of
 plication, shall issue their or his Warrant
 ; but no such Distress shall issue against the
 ich Treasurer unless Seven Days previous
 riting, stating the Amount so due, and de-
 yment thereof, have been given to such
 r left at his Residence; and if such Treasurer
 ey under such Distress as aforesaid, he may
 amount so paid by him, and all Costs and
 asioned thereby, out of any Money belong-
 mpany coming into his Custody or Control,
 ie the Company for the same.

Distress
 against the
 Treasurer,
 where no
 sufficient
 goods of the
 Company:

Notice;

Recovery by
 Treasurer
 from Com-
 pany.

re in this or the special Act, any Question
ation, Expenses, Charges, or Damages, or
r, is referred to the Determination of any
or more, it shall be lawful for any Justice,
pplication of either Party, to summon the
to appear before One Justice, or before Two
he Case may require, at a Time and Place
in such Summons; and upon the Appear-
Parties, or in the Absence of any of them,
of due Service of the Summons, it shall be
ich One Justice, or such Two Justices, as
y be, to hear and determine such Question,

Mode of
Proceeding
before a
Justice or
Justices in
Questions of
Compensa-
tion,
Damages, &c.

Costs. and for that Purpose to examine such Part
them, and their Witnesses, on Oath; and
every such Inquiry shall be in the Discre-
tion of the Justices, and they shall determine the Amount

**Publication
by Company,
of Penalties
on other than
Share-
holders, offi-
cers, or
servants:
mode of
publication:** 143. The Company shall publish the short
titles of the several Offences for which any Penalty
is imposed by this or the special Act, or by any Bye Law
of the Company affecting other Persons than the Share-
holders, Officers, or Servants of the Company, and of
every such Penalty^b; and shall cause such

to be painted on a Board, or printed upon
a Board, and shall cause such Board
to be pasted thereon, and shall cause such Board
to be put up or affixed on some conspicuous Part of the
Place of Business of the Company; and where
the Penalties are of local Application, shall cause
such Penalties to be affixed in some conspicuous Place in the
Neighbourhood to which such Penalties
relate, or have reference; and such Particulars shall be
renewed as often as the same or any Part thereof
is effaced or destroyed; and no such Penalty shall be
recoverable unless it shall have been published in the
Manner herein-before required.

**Penalty for
defacing
Boards used
for Publica-
tion of
Offences and
Penalties.** 144. If any Person pull down or injure
any Board put up or affixed as required by this or the
special Act, for the Purpose of publishing any Bye Law,
or shall obliterate any of the Letters or Figures on
such Board, he shall forfeit for every such Offence a Sum
not exceeding Five Pounds, and shall defray the Expenses
incurred in the Restoration of such Board.

**Recovery of
Penalties,
summarily,
before
Justices:** 145. Every Penalty or Forfeiture imposed
by this or the special Act, or by any Bye Law made in
pursuance thereof, the Recovery of which is not other-
wise provided for, may be recovered by summary
Judgment before Two Justices; and on Complaint before
any Justice, he shall issue a Summons requiring the
Party complained against to appear before the

^a Bye-Laws, § 108 *et seq.*; Publication of them, § 114.

^b See *Offences and Penalties* in Index.

me and Place to be named in such Summons; every such Summons shall be served on the Party either in Person or by leaving the same with a mate at his usual Place of Abode; and upon the demand of the Party complained against, or, in his absence, after Proof of the due Service of such Summons, it shall be lawful for any Two Justices to proceed to a Hearing of the Complaint, and that although no Affidavit in Writing or in Print shall have been made before them; and upon Proof of the Offence, either by the Confession of the Party complained against, or upon the Oath of One credible Witness or more, it shall be lawful for such Justices to convict the Party, and upon such Conviction to adjudge the Party to pay the Penalty or Forfeiture incurred, as well as such Costs attending the Conviction as such Justices shall think fit.

If forthwith upon any such Adjudication as aforesaid the Amount of the Penalty or Forfeiture, and the Costs as aforesaid, be not paid, the Amount of the Penalty and Costs shall be levied by Distress; and the Justices, or either of them, shall issue their or his Warrant of Distress accordingly.

It shall be lawful for any such Justice to order the Offender so convicted as aforesaid to be detained in safe Custody, until Return can be made to the Warrant of Distress to be issued against such Penalty or Forfeiture and Costs, unless the Offender give sufficient Security, by way of Recognizance or otherwise, to the Satisfaction of the Justice, for his Appearance before him on the Day appointed for Return, such Day not being more than Eight Days after the Time of taking such Security; but if before the issuing of such Warrant of Distress it shall appear to the Justice by the Admission of the Offender or otherwise, that sufficient Distress can be had within the Jurisdiction of such Justice whereon to levy such Penalty or Forfeiture and Costs, he may, if he thinks fit, refrain

Penalties
to be levied
by Distress,
if not imme-
diately paid.

Offender
may be kept
in Custody
until return
to Distress
Warrant,
unless
security
given :

Or Imprison-
ment may be
substituted
for Distress.

from issuing such Warrant of Distress; and in case or if such Warrant shall have been issued and a Return thereof such Insufficiency as aforesaid is made to appear to the Justice, then such Justice shall cause such Offender to be committed to there to remain without Bail for any Term not exceeding Three Months unless such Penalty or fine and Costs be sooner paid and satisfied.

Distress, how
to be levied:

148. Where in this or the special Act, or any Act incorporated therewith, any Sum of Money, whether by the Nature of Penalty or otherwise, is directed to be levied by Distress, such Sum of Money shall be levied by Distress and Sale of the Goods and Chattels of the Party liable to pay the same; and the Overplus from the Sale of such Goods and Chattels, exceeding such Sum of Money and the Expenses of the Distress and Sale, shall be returned, on Demand, to the Party whose Goods shall have been distrained.

Distress not
unlawful for
Informality,
&c.

149. No Distress levied by virtue of this or any Act, or any Act incorporated therewith, shall be deemed unlawful, nor shall any Party making the same be deemed a Trespasser, on account of any Defect or Want in the Summons, Conviction, Warrant of Distress, or other Proceeding relating thereto, nor shall such Party be deemed a Trespasser *ab initio* on account of any Irregularity afterwards committed by him, or any Person aggrieved by such Defect or Irregularity may sue for full Satisfaction for the special Damage sustained upon the Case.

Application
of Penalties—

150 The Justices by whom any such Penalty or Forfeiture shall be imposed may, where the Act does not otherwise provide for, award not more than One Half thereof to the Informer, and shall award the Remainder to the Overseers of the Poor of the Parish in which the Offence shall have been committed.

Part to
Informer,
Part to the
Poor.

* i.e.,—Guardian or Guardians of the Electoral Division in which the Offence was committed in Ireland, see § 3. There are no "Overseers of the Poor" in Ireland.

be applied in aid of the Poor's Rate of such Parish; or the Place wherein the Offences shall have been committed all be extra-parochial, then such Justices shall direct the Remainder to be applied in aid of the Poor's Rate of such extra-parochial Place, or, if there shall not be a Poor's Rate therein, in aid of the Poor's Rate of the adjoining Parish or District.

51. No Person shall be liable to the Payment of any Penalty or Forfeiture imposed by virtue of this or the special Act, or any Act incorporated therewith, for any offence made cognizable before a Justice, unless the complaint respecting such Offence shall have been made before such Justice within Six Months next after the commission of such Offence.

Penalties to be sued for within Six Months.

52. If, through any Act, Neglect, or Default, on the part whereof any Person shall have incurred any Liability imposed by this or the special Act, any Damage to the Property of the Company shall have been committed by such Person, he shall be liable to make good the Damage as well as to pay such Penalty; and the amount of such Damages shall, in case of Dispute, be determined by the Justices by whom the Party incurring such Penalty shall have been convicted; and on payment of such Damages, on Demand, the same shall be levied by Distress, and such Justices, or One of them, shall issue their or his Warrant accordingly.

Damage to Company to be made good in addition to Penalty.

53. It shall be lawful for any Justice to summon any Person to appear before him as a Witness in any matter in which such Justice shall have Jurisdiction under the Provisions of this or the special Act, at a Time and Place mentioned in such Summons, and to administer to him an Oath to testify the Truth in such Matter; and if any Person so summoned shall, without reasonable Excuse, refuse or neglect to appear at the Time and Place appointed for that Purpose, having been paid or tendered a reasonable Sum for his Expenses, or if any Person appearing shall refuse to be examined upon oath or to give Evidence before such Justice, every such

Justices may summon Witnesses;

and administer Oath;

Penalty on Witnesses making Default.

Person shall forfeit a Sum not exceeding Five Pounds for every such Offence.

Offenders unknown to Company's Officers, may be detained by them, and taken before a Justice.

154. It shall be lawful for any Officer or Agent of the Company, and all Persons called by him to his Assistance, to seize and detain any Person who shall have committed any Offence against the Provisions of this or the special Act, and whose Name and Residence shall be unknown to such Officer or Agent, and convey him, with all convenient Despatch, before some Justice, without any Warrant or other Authority than this or the special Act; and such Justice shall proceed with all convenient Despatch to the hearing and determining of the Complaint against such Offender.

Form of Conviction.

155. The Justices before whom any Person shall be convicted of any Offence against this or the special Act, or any Act incorporated therewith, may cause the Conviction to be drawn up according to the Form in the Schedule to this Act annexed^a.

Proceedings not void for Informality; and no Certiorari.

156. No Proceeding in pursuance of this or the special Act, or any Act incorporated therewith, shall be quashed or vacated for Want of Form, nor shall the same be removed by Certiorari or otherwise into any of the Superior Courts.

Parties aggrieved by adjudication of a Justice may appeal to Quarter Sessions:

157. If any Party shall feel aggrieved by any Determination or Adjudication of any Justice with respect to any Penalty or Forfeiture under the Provisions of this or the special Act^b, or any Act incorporated therewith, such Party may appeal to the General Quarter Sessions for the County or Place in which the Cause of Appeal shall have arisen; but no such Appeal shall be entertained unless it be made within Four Months next after the making of such Determination or Adjudication, nor unless Ten Days Notice in Writing of such Appeal, stating the Nature and Grounds thereof, be given to the Party against whom the Appeal shall be brought, nor

within 4 months;

Notice;

^a Form of Conviction, Schedule, (p. 197.)

^b Or by decision of Justices regarding application for level crossings over roads; § 60 (p. 126.)

unless the Appellant forthwith after such Notice enter Security. into Recognizances, with Two sufficient Sureties, before a Justice, conditioned duly to prosecute such Appeal, and to abide the Order of the Court thereon.

158. At the Quarter Sessions for which such Notice shall be given, the Court shall proceed to hear and determine the Appeal in a summary Way; or they may, if they think fit, adjourn it to the following Sessions; and upon the hearing of such Appeal, the Court may, if they think fit, mitigate any Penalty or Forfeiture, or they may confirm or quash the Adjudication, and order any Money paid by the Appellant, or levied by Distress upon his Goods, to be returned to him, and may also order such further Satisfaction to be made to the Party injured as they may judge reasonable; and they may make such Order concerning the Costs, both of the Adjudication Quarter Sessions to hear and determine appeal. and of the Appeal, as they may think reasonable. Costs.

159. Provided always, and be it enacted, That notwithstanding any thing herein or in the special Act, or any Act incorporated therewith, contained, every Penalty or Forfeiture imposed by this or the special Act, or any Act incorporated therewith, or by any Bye Law in pursuance thereof, in respect of any Offence which shall take place within the Metropolitan Police District, shall be recovered, enforced, accounted for, and, except where the Application thereof is otherwise specially provided for, shall be paid to the Receiver of the Metropolitan Police District, and shall be applied in the same Manner as Penalties or Forfeitures, other than Fines upon drunken Persons, or upon Constables for Misconduct, or for Assaults upon Police Constables, are directed to be recovered, enforced, accounted for, paid, and applied by an Act passed in the Third Year of the Reign of Her present Majesty, intituled *An Act for regulating the Police Courts in the Metropolis*^a; and every Order or Conviction of any of the Police Magistrates in respect of any such Forfeiture or Penalty shall

Receiver of London Metropolitan Police District to receive Penalties incurred within his District.

^a 2 & 3 Vic. c. 71 : London Metropolitan Police Act.

be subject to the like Appeal, and upon the same Terms, as is provided in respect of any Order or Conviction of any of the said Police Magistrates by the said last-mentioned Act; and every Magistrate by whom any Order or Conviction shall have been made, shall have the same Power of binding over the Witnesses who shall have been examined, and such Witnesses shall be entitled to the same Allowance of Expenses as he or they would have had or been entitled to in case the Order, Conviction, and Appeal had been made in pursuance of the Provisions of the said last-mentioned Act.

False Evidence,
Perjury.

160.... Every Person who, upon any Examination upon Oath, under the Provisions of this or the special Act, or any Act incorporated therewith, shall wilfully and corruptly give false Evidence, shall be liable to the Penalties of wilful and corrupt Perjury.

Bank of
Ireland.

Money paid
into the
Bank of Ire-
land to be
exempt from
Ushers
Poundage.

161. *And be it declared and enacted, That all Sums of Money which have been or shall be paid into the Bank of Ireland, in the Name and with the Privity of the Accountant-General of the Court of Chancery of Ireland, under the Provisions of an Act passed in the Second Year of the Reign of Her present Majesty, intituled An Act to provide for the Custody of certain Monies paid in pursuance of the Standing Orders of either House of Parliament by Subscribers to Works or Undertakings to be effected under the Authority of Parliament*, shall and may be paid out and applied under any Order of the said Court of Chancery exempt from Ushers Poundage.*

Access to
special Act.

And with respect to the Provision to be made for affording Access to the special Act by all Parties interested, be it enacted as follows:

Copies of

162. The Company shall, at all Times after the Expi-

* The act of 1838, (1 & 2 Vic. c. 117,) here referred to, has since been repealed and re-enacted with amendments by an act of 1846, (9 Vic. c. 20,) which will be found in the Appendix, (XXIV.)

ration of Six Months after the passing of the special Act, keep in their principal Office of Business a Copy of the special Act, printed by the Printers to Her Majesty, or some of them; shall also, within the Space of such Six Months, deposit in the Office of each of the Clerks of the Peace of the several Counties into which the Works shall extend a Copy of such special Act, so printed as aforesaid; and the said Clerks of the Peace shall receive, and they and the Company respectively shall retain, the said Copies of the special Act, and shall permit all Persons interested to inspect the same, and make Extracts or Copies therefrom, in the like Manner, and upon the like Terms^a, and under the like Penalty for Default^a, as is provided in the Case of certain Plans and Sections by an Act passed in the First Year of the Reign of Her present Majesty, intituled *An Act to compel Clerks of the Peace for Counties, and other Persons, to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament*^b.

special Act to be kept by the Company, and deposited with Clerks of Peace; within 6 months;

Copies to be preserved and open to inspection: Extracts or Copies may be taken; under penalties.

163. If the Company shall fail to keep or deposit, as herein-before mentioned, any of the said Copies of the special Act, they shall forfeit Twenty Pounds for every such Offence, and also Five Pounds for every Day afterwards during which such Copy shall be not so kept or deposited.

Penalty on Company not keeping or depositing such Copies.

164....This Act shall not extend to *Scotland*.

Extent of Act.

Scotland.

SCHEDULE REFERRED TO BY THE FOREGOING ACT^b.

to wit.

BE it remembered, That on the Day of , in the Year of our Lord , A. B. is convicted before us, C., D., Two of Her Majesty's Justices of the Peace for the County of , [here describe the Offence generally, and the Time and Place when and where committed], contrary to the [here name the special Act.] Given under our Hands and Seals the Day and Year first above written.

C.
D.

^a 1 Vic. c. 83; (App., XXIII. 2, 3.)

^b Form of Conviction: § 155, (p. 194.)

VIII.—CANAL AND RAILWAY CARRIERS ACT, 1845.

8 & 9 VICT. CAP. 42.

An Act to enable Canal Companies to become Carriers
of Goods upon their Canals.

[21st July, 1845.]

Canal Companies may carry Goods on their Canals, or Railways, or Tramways belonging thereto, or Canals communicating therewith:

WHEREAS by divers Acts of Parliament, Railway Companies have been empowered to convey upon their Railways all such Goods, Wares, Merchandise, Articles, Matters, and Things as may be offered to them for that Purpose, and to make such reasonable Charges for such Conveyance as they may from Time to Time determine upon: And whereas greater Competition for the public Advantage would be obtained if similar Powers were granted to Canal and Navigation Companies which have from Time to Time been incorporated or established under the Authority of Parliament; but such beneficial Purpose cannot be effected without the Authority of Parliament: Be it therefore enacted*....That from and after the passing of this Act, it shall be lawful for the Company of Proprietors, Trustees, or the Undertakers of any Canal, River, or Navigation, or their respective Committees, Directors, or Managers, or their Superintendents, or other Agents by them duly authorized^b, to carry, as Common Carriers for their own Profit, upon

* See note * in p. 1.

^b But see § 12, requiring consent of Shareholders, where the Canal or Navigation is the property of Shareholders, (p. 205.)

their respective Canals, Rivers, or Navigations, or upon any Railways or Tramways belonging thereto, and constructed under the Powers of their respective Acts of Parliament, or upon any other Canals, Rivers, or Navigations communicating therewith, either directly or by means of any intermediate Canal, River, or Navigation, all such Goods, Wares, Merchandize, Articles, Matters, and Things as may be entrusted to them for that Purpose; and for the better enabling them so to do, to purchase, hire, and construct, and to use and employ, any Number of Boats, Barges, Vessels, Rafts, Carts, Waggon, Carriages, and other Conveniences; and also to establish and furnish such Haulage, Trackage, or other Means of drawing or propelling the same, either by Steam, Animal, or other Power, or for the Purpose of collecting, carrying, conveying, warehousing, and delivering such Goods, Wares, Merchandize, Articles, Matters, and Things, as to any such Company or Undertakers shall seem fit; and to make such reasonable Charges for such Conveyance, Warehousing, Collection, and Delivery as they may respectively from Time to Time determine upon, in addition to the several Tolls or Dues which any such Company or Undertakers are now authorized to take for the Use of their said Canals, Navigations, or Railways.

and may purchase Boats, Carriages, &c.; and provide moving power, &c.;

and collect, deliver, &c.,

and may charge for same, in addition to Tolls.

2. Provided always, and be it enacted, That any such Company, Commissioners, Trustees, or Undertakers using or employing any Steam Power for propelling by means of Paddle Wheels, Boats, Barges, Vessels, or Rafts, upon any Canal, River, or Navigation, (other than their respective Canals, Rivers, and Navigations,) shall use and employ the same, subject to such Bye Laws, Rules, and Regulations touching the Construction, Dimensions, Power, Rate of Speed, and otherwise, of such Boats, Barges, Vessels, or Rafts so propelled by Steam as aforesaid, as the Directors, Commissioners, or

Company to be subject to the Bye Laws of any other Company upon whose Canal they may act as Carriers:

and such
other Com-
pany may
make Bye
Laws, &c.

Undertakers of the Canals, Rivers, and Navigations, respectively on which such last-mentioned Boats, Barges, Vessels, or Rafts shall be used and employed shall see fit to make and publish in that Behalf; and they are hereby authorized and empowered to make and publish such Bye Laws, Rules, and Regulations, and from Time to Time to add to or amend the same, as Need may require; but it is hereby expressly provided and enacted that any Bye Laws, Rules, and Regulations so to be made and published shall be made equally applicable^a to and binding on all Companies and Persons so using such last-mentioned Boats, Barges, or other Vessels.

Canal Com-
panies may
provide Boats
and Power
for hauling
and tracking
Vessels of
other Per-
sons:

Hire or
remuneration
for same.

3....It shall also be lawful for any such Company, Trustees, or Undertakers^b to purchase and provide and use Boats and other Vessels, and also Horses, Steam or other Power, and Machinery, for hauling, tracking, and towing, upon their own Canals, Rivers, or Navigations, or upon any other Canals, Rivers, or Navigations communicating therewith, either directly or by means of any intermediate Canal, River, or Navigation, and to employ a sufficient Number of competent Persons for those Purposes; and to demand and receive for the Use of such Boats, and for such hauling, tracking, or towing, such reasonable Hire or Remuneration as shall be fixed by the respective Committees, Directors, or Managers of such Canals or Navigations, or as shall be agreed upon between them and any Person desiring the Use of any such Boats or Vessels, or requiring such hauling, tracking, or towing.

Tolls, &c.
to be charged
equally to
all Persons.

4. Provided always, and be it enacted, That all Charges to be made by any such Company for the Carriage of any such Goods, Wares, Merchandize, Articles, or Things, or for the Use of their Boats and other Vessels, or for the Supply of Haulage, Trackage, or other Power, shall be at all Times charged equally to

^a See further, in 17 & 18 Vic. c. 31 (XVI. 2, 3.)

^b With consent of Shareholders; see § 12 (p. 205).

all Persons, and after the same Rate, whether *per* Mile, or *per* Ton *per* Mile, or otherwise, in respect of all Goods, Wares, Merchandize, Articles, and Things of a like Description, and conveyed or propelled in a like Boat or Vessel at the same Rate of Speed, and passing along the same Portion of any such Canal or Navigation under the like Circumstances; and no Reduction or Advance in any of such Charges shall be made, either directly or indirectly, in favour of or against any particular Company or Person passing along or using, or sending Goods, Wares, Merchandize, Articles, or Things along the same Portion of any such Canal or Navigation under the like Circumstances*.

5....Any Canal or Navigation Company exercising the Powers by this Act granted, shall have all the same Powers and Remedies for recovering any Sum or Sums of Money which shall or may become due and owing to such Company as Carriers, or for the Use of any Boats or Vessels, or for the Supply of any Haulage, Trackage, or other Power, by virtue of this Act, as are given to them respectively by their said several Acts of Parliament in reference to the Tolls and Duties thereby made payable; or they may, at their Option, sue for and recover such Charges, or any Part thereof, in any of the Superior Courts: and such Company may in like Manner be sued for any Loss sustained by any Person or Persons employing the said Company as Carriers, or for any Neglect or Misconduct of such Company or their Servants in respect of their Conduct as Carriers by virtue of this Act; and such Company may prosecute any Indictment or other Proceeding at Law in respect of any Offence arising or being committed in the course of such carrying or other Proceeding under this Act; and it shall be sufficient if any Goods or other Things which are set out in any Indictment shall be described and laid to be the Property of the said Company.

Company
may sue and
be sued as
Carriers, and
may prefer
Indictments:

Company
answerable
for losses,
&c.:

description of
Property in
Indictments.

* See further, in 17 & 18 Vic. c. 31, § 2, 3 (XVI. 2, 3).

Provisions
and Protec-
tions relating
to Common
Carriers to
apply to such
Companies.

6. Provided always, and be it enacted, That nothing herein contained shall in any Case extend to charge or make liable any such Company further or in any other Case than where, according to the Laws of this Realm for the Time being, Common Carriers would be liable; nor shall anything herein contained extend to deprive such Company of any Protection or Privilege which either now or at any Time hereafter Common Carriers have or may be entitled to, but such Company shall from Time to Time and at all Times have and be entitled to the Benefit of every such Protection and Privilege*.

Companies
empowered
to enter into
agreements
with other
Canal Com-
panies, for
working
arrange-
ments, &c.

7. And whereas, in order to facilitate the Conveyance of Goods, and Merchandize, and other Matters and Things, in Manner aforesaid, it is expedient that Canal and Navigation Companies should be empowered to enter into Arrangements with each other, in the way that Railway Companies are authorized, so as to avoid the Necessity for a Change of Boats and other Delays arising from a Diversity of Interest; be it enacted, That notwithstanding anything in this Act or in any of the said Acts for establishing or incorporating the said Companies contained, it shall be lawful for any such Canal or Navigation Company as aforesaid, and they are hereby empowered, from Time to Time, to make and enter into any Contract or Agreement with any other Canal or Navigation Company, or the Commissioners or Undertakers thereof respectively, (and which Contract or Agreement such other Company is hereby authorized to enter into,) either for the Division or Apportionment of Tolls, Dues, and Charges, or for the Passage over or along their respective Canals or Navigations, or any Branches thereof, or any Railways or Tramways connected therewith and belonging thereto as aforesaid, of any Boats, Barges, or other Vessels, or of any Carriages or Trucks drawn or propelled by Steam, Animal, or

* See Carriers Act, 1 Wm. 4, c. 63 (App., XVII.)

† With consent of Shareholders; § 12 (p. 205).

other Power, of or belonging to any other Company, or which shall pass along any other Line of Canal, Navigation, or Railway, or for the Passage over or along any other Line of Canal, Navigation, or Railway of any such Boats, Barges, or other Vessels, Carriages, or Trucks drawn or propelled as aforesaid, which shall belong to any such Company, or which shall pass along their Line of Canal, Navigation, or Railway, upon the Payment of such Tolls and Duties, and under such Conditions and Restrictions, as may be deemed advisable and may be mutually agreed upon, and also to enter into any other Contract with any other Canal or Navigation Company that may be deemed advisable; and any such Contract may contain such Covenants, Clauses, Conditions, and Agreements as the contracting Parties may think advisable and mutually agree upon.

8....It shall be lawful for any such Canal or Navigation Company^a, from Time to Time, by Lease^b, to take effect in Possession within Six Months from the letting thereof, to let the Tolls and Duties or any Part thereof, upon the Whole or any Part of any such Canal or Navigation, or of any such Railways or Tramways, to any other Canal or Navigation Company, (and which Lease such other Canal or Navigation Company is hereby authorized to accept and enter into^b,) for any Period not exceeding Twenty-one Years from the Commencement of any such Lease: Provided always, that no such letting shall take place unless public Notice of the Intention to let such Tolls, or the Part thereof intended to be let, shall have been given by the Company proposing to let the same, by Advertisement, at least Fourteen Days prior to the Meeting of the Directors or Managers at which it shall be intended to let such Tolls.

Canal Companies empowered to lease their Tolls on Canals, Railways, &c.

^a See § 12, as to consent of Shareholders, (p. 205).

^b See act of 1858, (21 & 22 Vic. c. 75, § 3,) restraining Canal Companies which are also Railway Companies from taking a Lease of other Companies' Canals, unless specially named and authorized by Act of Parliament (XVI. 3.)

Lessees to be deemed Collectors of the Tolls in the Lease.

9....During the Continuance of any such Lease, the respective Lessees named therein, and also all Persons appointed by them to collect the Tolls so let, shall be deemed Collectors of the Tolls so let, and they shall have the same Powers to collect and recover such Tolls, and be subject to the same Rules, Duties, and Penalties in reference thereto, as if they had been appointed for that Purpose by the Company demising the same.

Lessee making default, to be removed.

10....If any such Lease shall become void or voidable, according to any Stipulations therein contained for that Purpose, by reason of the Failure on the Part of the Lessee to comply with any of the Terms of such Lease, or if all or any Part of the Rent thereby reserved shall be in arrear or unpaid for Twenty-one Days after the same shall become payable, then, upon Application made by the Company who shall have demised the same, to a Justice, it shall be lawful for such Justice to order any Constable, with proper Assistance, to enter upon any Toll House, Dwelling House, Office, Weighing Machine, or other Building, with the Appurtenances, belonging to the Lessors, and remove from the same the Lessee or Collector or other Person found therein, together with his Goods, and take Possession thereof and of all Property found therein belonging to the Lessors, and deliver the same to them or any Person appointed by them for that Purpose.

on application to a Justice.

and possession may be resumed.

Lease may be determined for default.

11....Upon such Possession being obtained, it shall be lawful for the Company having made such Demise to determine the Lease (if any) previously subsisting, and the same shall accordingly be utterly void, except as to the Remedies of the Lessors for Payment of the Rent due, or in respect of any unperformed or broken Obligations or Conditions on the Lessee's Part, all which Remedies shall remain in full Force; and in every such Case, either during such Proceedings or on the Termination thereof, the Company may again let^a the Tolls to

and Power to re-let Tolls.

^a See § 12, as to consent of Shareholders, (p. 205.)

the same or any other Person, or cause them to be collected in the same Manner as if no such former Lease had been made relative thereto.

12. Provided always, and be it enacted, That this Act shall not apply to any Canal or Navigation the Property wherein is vested in Shareholders, nor shall the Powers of leasing herein-before contained^a be exercised by any such Canal or Navigation Company, until a Meeting of the Shareholders thereof shall have been duly convened in such Manner as Meetings are by their respective Acts of Incorporation or Settlement required to be called, or are usually called^b, and it shall have been determined by a Majority of Two Thirds of the Votes of the Shareholders in such Meeting assembled, either in Person or by Proxy, where by such Acts of Incorporation or Settlement Voting by Proxy is allowed, to adopt the Powers and Provisions hereby granted, or such and so many of them as it shall at such Meeting be determined shall be adopted, or to grant or accept any such Lease, nor to any Canal or Navigation the Property wherein is vested in One or more Owner or Owners, Proprietor or Proprietors, unless the Owner or Owners, Proprietor or Proprietors thereof shall determine to adopt the Powers and Provisions hereby granted, nor in either Case until public Notice of any such Determination and Intention shall have been inserted in the *London Gazette* in respect of Canals or Navigations in *England* or *Wales*, in the *Edinburgh Gazette* in respect of Canals or Navigations in *Scotland*, and in the *Dublin Gazette* in respect of Canals or Navigations in *Ireland*, and in some Newspaper circulating in the County or Counties wherein such Canal or Navigation, or some Part thereof, shall pass, One Month at the least previously to the Exercise of any such Power; whereupon, or immediately after the Expiration of such Notice, every such Company, or

Acts not to apply to Canals vested in Shareholders, until approved of at a Meeting, or in other Cases by Proprietors, and Notices inserted in Gazettes, &c.

^a § 8, 11.

^b See Companies Clauses Act, 1845, § 66 *et seq.*, as to Meetings of Shareholders, where not otherwise provided in special acts, (VI. 66 &c.)

their respective Committees, Directors, or Managers, or their Agents by them duly authorized in Manner aforesaid, may from Time to Time put in force and exercise the said Powers or any of them, in the Manner by this Act authorized.

Act not to exempt Canal Companies from any General Act.

13....Nothing herein contained shall be construed to exempt any Canal or Navigation Company who shall adopt^a the Powers of this Act, from the Operation of any general Act regulating the Manner of charging Tolls and other Charges upon Canals or Navigations in respect of Passengers, Goods, Animals, Articles, and Things of a like Description, which may be passed in the course of any future Session of Parliament.

IX.—LEASING OR SALE OF RAILWAYS.

8 & 9 VICT. CAP. 96.

An Act to restrict the Powers of selling or leasing Railways^b contained in certain Acts of Parliament relating to such Railways. [4th August, 1845.]

General power of Sale or Leasing to anybody, & thidden.

No Company to grant or accept a Sale, Lease, or Transfer of Railway without dis-

WHEREAS Provisions have been introduced in various Acts of Parliament, during the present Session^c of Parliament, relating to Railways, giving to Railway Companies general Powers of granting or accepting a Lease, Sale, or Transfer of their own or other Lines of Railway; and it is expedient that such Powers should be restrained: Be it therefore enacted^d....That it shall not be lawful for the Company of Proprietors of any Railway, by virtue of any Powers contained in any Act passed in the present Session^e, to make or grant, or for

^a See § 12, (p. 205.)

^b See further provision in act of 1850, (21 & 22 Vic. c. 75) in reference to the Leasing of Canals where belonging to a Railway Company (XVI. 3.)

^c The present act relates only to cases in which powers were obtained in acts of the same session, 1845: in other cases the requisite provisions have been introduced in the special acts.

^d See note ^a in p. 1.

any other Railway Company or Party, by virtue of any such Powers, to accept a Sale, Lease, or other Transfer, of any Railway, unless under the Authority of a distinct Provision in some Act of Parliament to that Effect specifying by Name the Railway to be so leased, sold, or transferred, and the Company or Party by whom such Lease, Sale, or Transfer may be respectively made, granted or accepted^a.

tinot Pro-
vision of
an Act
specifying
the Parties.

X.—GAUGE OF RAILWAYS.

9 & 10 VICT. CAP. 57.

An Act for regulating the Gauge of Railways.

[18th August, 1846.]

WHEREAS it is expedient to define the Gauge on which Railways shall be constructed: Be it enacted^b....That after the passing of this Act, it shall not be lawful (except as herein-after excepted^c) to construct any Railway for the Conveyance of Passengers on any Gauge other than Four Feet Eight Inches and Half an Inch in *Great Britain*, and Five Feet Three Inches in *Ireland*: Provided always, that nothing herein-before contained shall be deemed to forbid the Maintenance and Repair of any Railway constructed before the passing of this Act on any Gauge other than those herein-before specified, or to forbid the laying of new Rails on the same Gauge on which such Railway is constructed within the Limits of Deviation authorized by the several Acts under the Authority of which such Railways are severally constructed.

Rule for
Gauge of
future Rail-
ways:

4 feet 8½ in-
ches for Great
Britain;
5 feet 3 inches
for Ireland.
Proviso, not
to affect ex-
isting Rails.

2....Nothing herein-before contained shall apply to any Railway constructed or to be constructed under the Provisions of any present or future Act containing any special Enactment defining the Gauge or Gauges of

Exception
of future
Railways
from this
Act, in cer-
tain districts:

^a See note ^b in p. 206.

^b See note ^a in p. 1.

^c § 2, 3, 5.

Western
Railways in
England;

9 & 10 Viet.
c. clxvi.

9 & 10 Viet.
c. cxxxvi.

9 & 10 Viet.
c. cxxxviii.

Glamorgan-
shire.

Certain Rail-
ways, Welsh
and Western
Lines, to be
on the Broad
Gauge of 7
feet.

6 & 9 Viet.
c. cxc.
6 & 9 Viet.
c. cxci.

9 & 10 Viet.

such Railway, or any Part thereof, or to any Railway which is in its whole Length Southward of the Great Western Railway, or to any Railway in any of the Counties of Cornwall, Devon, Dorset or Somerset, for which any Act has been or shall be passed in this Session of Parliament, or to any Railway in any of the last-mentioned Counties now in course of Construction, or to the Two Railways severally to be constructed under the Authority of Two Acts passed in this Session of Parliament, severally intituled *An Act for making a Railway from the Great Western Railway at West Drayton to Uxbridge in Middlesex*, and *An Act for making a Railway from the Great Western Railway at Maidenhead in Berkshire to the Town of High Wycombe in the County of Buckingham*; or to so much of an Act passed in this Session, intituled *An Act to authorize certain Extensions of the Line of the Oxford, Worcester, and Wolverhampton Railway*, and to amend the Act relating thereto, as authorizes the Construction of a Branch Railway from the Oxford, Worcester, and Wolverhampton Railway to the Town of Witney in the County of Oxford; or to an Act passed or which may be passed in this Session of Parliament, "to authorize the Construction of a Railway from Melin-y-Manach to Rhydydefydd in the County of Glamorgan."

3....The several Railways authorized to be constructed, by an Act passed in the last Session of Parliament intituled *An Act for making a Railway, to be called "The South Wales Railway,"* and by an Act also passed in the last Session of Parliament intituled *An Act for making a Railway from Monmouth to Hereford, with Branches therefrom to Westbury and to join the Forest of Dean Railway*, and by Two Acts passed in this Session of Parliament, severally intituled* *An Act for completing the Line of the South Wales Railway*, and to authorize the Construction of an Extension and certain Alterations of the said Railway, and certain Branch

* See note * in p. 209.

Railways in connection therewith^a, and *An Act for making* 9 & 10 Vis. cap. cv.
a Railway Communication between the City of Bristol
and the proposed South Wales Railway in the County of
Monmouth, with a Branch Railway therefrom, shall be
 constructed on the Gauge of Seven Feet.

4....It shall not be lawful after the passing of this Act to alter the Gauge of any Railway used for the Conveyance of Passengers.

5....Nothing herein-before contained shall be deemed to affect the Provisions of Two Acts passed in the last Session of Parliament, respectively intituled *An Act for making a Railway from the City of Oxford to the Town of Rugby*, and *An Act for making a Railway from Oxford to Worcester and Wolverhampton*, with respect to the Gauge on which they are to be formed, or the additional Rails which according to the several Provisions of the last Two recited Acts are to be or may be laid down and maintained on the Railways thereby authorized, or with respect to the Powers thereby conferred on the Commissioners of Her Majesty's Privy Council for Trade and Foreign Plantations concerning the Construction and Use of the Railways thereby authorized.

Gauge of
 Passenger
 Lines not to
 be altered.

Oxford and
 Rugby, and
 Oxford,
 Worcester,
 and Wolver-
 hampton
 Railways, not
 affected.
 8 & 9 Vis.
 c. clxxxviii.
 8 & 9 Vis.
 c. clxxxiv.

6....If any Railway used for the Conveyance of Passengers shall be constructed or altered contrary to the Provisions of this Act, the Company authorized to construct the Railway, or, in the Case of any Demise or Lease of such Railway, the Company for the Time being having the Control of the Works of such Railway, shall forfeit Ten Pounds for every Mile of such Railway which shall be so unlawfully constructed or altered, during every Day that the same shall continue so unlawfully constructed or altered; and in estimating the Amount of any such Penalty, any Distance less than One Mile shall be estimated as a Mile.

Penalty on
 Company for
 constructing
 or altering
 Railways in
 opposition to
 this Act :
 £10 a mile
 per day.

^a Sic : there is, however, no act in the statute-book of the session in question, entitled as above described. The act intended to be cited is no doubt 9 & 10 Vis. c. cxxxix, entitled "An Act for extending the Line of the South Wales Railway, and for making certain Alterations of the said Railway, and certain Branch Railways in connection therewith."

Passenger
Railways at
variance with
this Act may
be abated
and removed,
by Board of
Works or by
Board of
Trade.

7....Over and above the Penalty herein-before provided, if any Railway used for the Conveyance of Passengers shall be constructed or altered contrary to the Provisions of this Act, it shall be lawful for the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works, and Buildings*, or for the Lords of the Committee of Her Majesty's Privy Council for Trade and Foreign Plantations, to abate and remove the same or any Part thereof so constructed or altered contrary to the Provisions of this Act, and to restore the Site thereof to its former Condition.

Recovery of
Penalties.

8....All Penalties under this Act may be recovered from the Company liable to pay and make good the same, as, under the Provisions of an Act passed in the last Session of Parliament, intituled *An Act for consolidating in One Act certain Provisions usually inserted in Acts authorizing the making of Railways*, a Penalty for any Infringement of the last-recited Act is recoverable against a Company authorized to construct a Railway†.

XI.—POST OFFICE ACT, 1847.

10 & 11 VICT. CAP. 85.

An Act for giving further Facilities for the Transmission of Letters by Post, and for the regulating the Duties of Postage thereon, and for other Purposes relating to the Post Office. [22nd July, 1847.]

EXTRACTS relating to Railways.

Post office
may send
Mails by

"§ 16. And whereas by an Act passed in the Second Year of the Reign of Her present Majesty, intituled

* The department here referred to has since been divided into two separate offices, by act of 14 & 15 Vic. c. 42; namely, the office of the Commissioners of Woods, Forests, and Land Revenue, and that of the Commissioners of Works and Public Buildings. Under that act (§ 2,) the powers heretofore given to the Commissioners above described are transferred to the Commissioners of Woods, Forests, and Land Revenues constituted under the last-named act.

† 8 & 9 Vict. c. 20, § 140 *et seq.* (VII., p. 188 &c.)

An Act to provide for the Conveyance of the Mails by Railways^a, Provision is made for the Transmission of the Mails by Railways; be it enacted, That it shall be lawful for the Postmaster General to require, in the Manner prescribed by the said last-mentioned Act, that any Mails and Post Letter Bags shall be conveyed and forwarded by any Railway Company on their Railway, under and pursuant to the said Act, notwithstanding any Guard or other Officer of the Post Office shall not be sent with the same or in charge thereof; and such Mails and Post Letter Bags shall be conveyed and forwarded by such Railway Company accordingly.”

Railways without a Post office Guard, &c.,

“§ 20....This present Act shall be deemed and taken to be a Post Office Act; and....the Term “Railway,” used in this Act and in the said Act^b passed in the Second Year of the Reign of Her present Majesty, shall include every Railway already constructed or hereafter to be constructed under the Powers of any Act of Parliament; and whenever the Term “Railway Company” or “Company of Proprietors” is used in this Act, or in the said last-mentioned Act, it shall be construed to extend to include the Proprietors for the Time being of any such last-mentioned Railway, and any Lessees or Tenants thereof.”....

Interpretation of Terms.

XII.—OFFENCES.

14 & 15 VICT. CAP. 19.

An Act for the better Prevention of Offences.

[3rd July, 1851.]

EXTRACTS relating to Railways^b.

“§ 6. If any Person shall wilfully and maliciously put, place, cast, or throw upon or across any Railway any

Placing Obstructions on Railway,

^a 1 & 2 Vic. c. 98 (p. 1.)

^b This act contains also provisions for prevention of Burglary and other offences in the night, not specially or exclusively relating to Railways. Scotland is excepted by § 16 from the application of the act, which applies to England and Ireland only.

Displacing or taking up Rails, Points, &c., removing or falsifying Signals, &c., with injurious Intent, Felony.

Wood, Stone, or other Matter or Thing,—or shall wilfully and maliciously take up, remove, or displace any Rail, Sleeper, or other Matter or Thing belonging to any Railway,—or shall wilfully and maliciously turn, move, or divert any Points or other Machinery belonging to any Railway,—or shall wilfully and maliciously make or show, hide or remove, any Signal or Light upon or near to any Railway,—or shall wilfully and maliciously do or cause to be done any other Matter or Thing, with Intent, in any of the Cases aforesaid, to obstruct, upset, overthrow, injure, or destroy any Engine, Tender, Carriage, or Truck using such Railway, or to endanger the safety of any Person travelling or being upon such Railway,—every such Offender shall be guilty of Felony; and being convicted thereof shall be liable, at the Discretion of the Court, to be transported beyond the Seas for the Term of his natural Life or for any Term not less than Seven Years, or to be imprisoned, with or without Hard Labour, for any Term not exceeding Three Years.

Punishment.

Throwing stones, &c., on or into Carriages, Engines, &c., with Intent to endanger Safety of Persons, Felony.

“7. If any Person shall wilfully and maliciously cast, throw, or cause to fall or strike against, into, or upon any Engine, Tender, Carriage, or Truck used upon any Railway, any Wood, Stone, or other Matter or Thing, with Intent to endanger the Safety of any Person being in or upon such Engine, Tender, Carriage, or Truck, every such Offender shall be guilty of Felony; and being convicted thereof shall be liable, at the Discretion of the Court, to be transported beyond the Seas for the Term of his natural Life or for any Term not less than Seven Years, or to be imprisoned, with or without Hard Labour, for any Term not exceeding Three Years.

Punishment.

Setting fire to Railway Buildings, &c., Felony:

“8. If any Person shall wilfully and maliciously set Fire to any Station, Engine House, Warehouse, or other Building belonging or appertaining to any Railway, Dock, Canal, or other Navigation, every such Person shall be guilty of Felony; and being convicted thereof

Punishment.

shall be liable, at the Discretion of the Court, to be

transported beyond the Seas for the Term of his natural Life, or for any Term not less than Seven Years, or to be imprisoned, with or without Hard Labour, for any Term not exceeding Three Years; and if any Person shall wilfully and maliciously set Fire to any Goods or Chattels being in any Building, the setting Fire to which is made Felony by this or any other Act of Parliament, every such Offender shall be guilty of Felony; and being convicted thereof shall be liable, at the Discretion of the Court, to be transported beyond the Seas for any Term not exceeding Ten Years nor less than Seven Years, or to be imprisoned, with or without Hard Labour, for any Term not exceeding Three Years."

Setting fire to Goods or Chattels therein, Felony :

Punishment.

"10. It shall be lawful for any Person whatsoever, to apprehend any Person who shall be found committing any Offence against the Provisions of this Act, and to convey him or deliver him to some Constable or other Peace Officer, in order to his being conveyed, as soon as conveniently may be, before a Justice of the Peace, to be dealt with according to Law.

Any Person may apprehend Offenders against this Act, and have them conveyed before a Justice.

"11. And whereas Doubts have been entertained as to the Authority to apprehend Persons found committing indictable Offences in the Night: For Remedy thereof be it enacted, That it shall be lawful for any Person whatsoever to apprehend any Person who shall be found committing any indictable Offence in the Night, and to convey him or deliver him to some Constable or other Peace Officer, in order to his being conveyed, as soon as conveniently may be, before a Justice of the Peace, to be dealt with according to Law.

Any Person may apprehend Persons committing indictable Offences in the Night, and have them conveyed before a Justice.

"12. If any Person liable to be apprehended under the Provisions of this Act shall assault or offer any Violence to any Person by Law authorized to apprehend or detain him, or to any Person acting in his Aid and Assistance, every such Offender shall be guilty of a Misdemeanor; and being convicted thereof shall be liable to be imprisoned, with or without Hard Labour, for any Term not exceeding Three Years.

Assaulting a Person authorized or aiding to apprehend offender, Misdemeanor :

Punishment.

Definition of
Night.

"13. The Time at which the Night shall commence and conclude in any Offence against the Provisions of this Act shall be the same as in Cases of Burglary.

Costs of Pro-
secutions
under this
Act, to be
allowed by
Court.

"14. In all Prosecutions for any Offence against the Provisions of this Act, it shall be lawful for the Court before which any such Offence shall be prosecuted or tried, to allow the Expenses of the Prosecution in all respects as in Cases of Felony."

XIII.—BOARD OF TRADE.

14 & 15 VICT. CAP. 64.

An Act to repeal the Act for constituting Commissioners of Railways.

[7th August, 1851.]

9 & 10 Vic.
c. 105.

WHEREAS an Act was passed in the Session holden in the Ninth and Tenth Years of Her Majesty (Chapter One hundred and five), for constituting Commissioners of Railways^a: And whereas it is expedient that the said Act should be repealed, and Provision be made for the Exercise and Performance of the Powers and Duties which since the passing of the said Act have been vested in or imposed on the said Commissioners: Be it enacted^b.... as follows:

Repeal of
revoked Act
Powers &c.
of Commis-
sioners of
Railways
under subse-
quent Acts,

1. From and after the Tenth of *October* One thousand eight hundred and fifty-one, the said Act shall be repealed; and all Powers, Rights, Authorities, and Duties vested in or exercised or performed by the Commissioners of Railways under any Act passed since^c the

^a 9 & 10 Vic. c. 105 (App., XXXII) ; hereby repealed.

^b See note ^a in p. 1.

^c The present act, therefore, does not devolve upon the Board of Trade the new powers and duties which were given to the late Commissioners of Railways by § 10, 11, &c. of the act of 1846, (9 & 10 Vic. c. 105,) the last-named act being altogether and simply repealed : for that act, see App., No. XXXII.

passing of the said recited Act, or which may be passed during the present Session of Parliament^a, shall be transferred to and vested in and performed by the Lords of the Committee of Her Majesty's Privy Council for Trade and Foreign Plantations, as if they had been named in such Acts instead of the said Commissioners; and all Proceedings pending before the said Commissioners on the said Tenth of *October*^b, or carried on under their Authority, shall be continued and carried on by and before the Lords of the said Committee, who shall have, exercise, and perform the same Powers, Rights, Authorities, and Duties in respect of all such Proceedings as might have been exercised or performed by such Commissioners in case this Act had not been passed.

transferred
to Board of
Trade.

2. It shall be lawful for the Lords of the said Committee, with the Approval of the Commissioners of Her Majesty's Treasury, to continue, for the Transaction of the Business transferred to the Lords of the said Committee under this Act, all or any of the Officers and Servants appointed by the said Commissioners of Railways; and from Time to Time, with such Approval, to remove such Officers and Servants, or any of them.

Board of
Trade may
continue
Officers
appointed by
Commis-
sioners of
Railways.

3. Where by any Act relating to Railways or to any Railway, the Commissioners of Railways or the Lords of the said Committee are empowered or required to make or issue any Appointment, Authority, Determination, Order, Requisition, Regulation, Certificate, or Notice, or to do any other Act, the Lords of the said Committee may, after the said Tenth of *October*^b, signify such Appointment, Authority, Determination, Order, Requisition, Regulation, Certificate, Notice, or other Act, by a written or printed Document, signed by One of the joint Secretaries of the Lords of the said Committee, or by some Assistant Secretary or other Officer ap-

Orders, No-
tices, &c., of
the Board of
Trade how to
be given.

^a This includes the powers devolved upon the late Commissioners of Railways by the special acts of any Companies, as well as by general acts.

^b The date of repeal of the act of 1846 taking effect; § 1, p. 214.

pointed by them to sign Documents relating to Railways; and every Appointment, Authority, Determination, Order, Requisition, Regulation, Certificate, Notice, or other Act, signified by a written or printed Document purporting to be so signed as aforesaid, shall be deemed to have been duly made, issued, or done by the Lords of the said Committee; and every such Document shall be received in Evidence, in all Courts and before all Justices and others, without Proof of the Authority or Signature of such Secretary or other Officer, or other Proof whatsoever, until it be shown that such Document was not signed by the Authority of the Lords of the said Committee.

XIV.—RAILWAY LIGHTS.

17 & 18 VICT. CAP. 104.

An Act to amend and consolidate the Acts relating to Merchant Shipping.

[10th August, 1854.]

The following provisions are extracted from "The Merchant Shipping Act, 1854," and inserted herein, as affecting Coast Lines in situations where the Lights at Railway Stations, &c., are visible at Sea and liable to be mistaken for those of a Lighthouse.

EXTRACTS from "PART VI.—LIGHTHOUSES," in the above Act.

*Prevention
of False
Lights.*

*General
Lighthouse
Authorities*

"Prevention of False Lights.

"§ 415. Whenever any Fire or Light is burned or exhibited at such Place or in such Manner as to be liable to be mistaken for a Light proceeding from a Lighthouse,

it shall be lawful for the General Lighthouse Authority^a within whose Jurisdiction such Place is situate, to serve a Notice upon the Owner of the Place where the Fire or Light is burnt or exhibited, or on the Person having the Charge of such Fire or Light, either personally or by Delivery at the Place of Abode of such Owner or Person, or by affixing the same in some conspicuous Spot near to such Fire or Light; and by such Notice to direct such Owner or Person^b, within a reasonable Time to be therein specified, to take effectual Means for the extinguishing or effectually screening such existing Light and for preventing for the future any similar Fire or Light; and any Owner or Person^b disobeying such Notice shall be deemed guilty of a Common Nuisance, and in addition to any other Penalties or Liabilities of any Kind thereby incurred, shall incur a Penalty not exceeding One Hundred Pounds.

may prohibit
Lights liable
to be mis-
taken for
Lighthouse
Lights:

Notice to be
served, to ex-
tinguish or
screen Lights,
and prevent
same for the
future.

Penalties for
disobeying
Notice.

"416. If any Owner or Person^b served with such Notice, as aforesaid, neglects, for a Period of Seven Days, to extinguish or effectually screen the Fire or Light therein mentioned, it shall be lawful for the General Lighthouse Authority^a within whose Jurisdiction the same may be, by their Servants or Workmen, to enter upon the Place whereon the same may be, and forthwith to extinguish such Fire or Light, doing no unnecessary Damage; and all Expenses incurred by such Authority in such Extinction may be recovered from such Person^b or Owner, as aforesaid, in the same way as Penalties are hereby directed to be recoverable^c."

If Notice not
obeyed,
Lighthouse
Authorities
may enter
premises and
extinguish
Lights:

Expenses
recoverable
like Penal-
ties.

^a The "General Lighthouse Authority" is for England and Wales and the Channel Islands, the Trinity House; for Scotland and the Isle of Man, the Commissioners of Northern Lighthouses; and for Ireland, the Port of Dublin Corporation or Ballast Board:—§ 389.

^b The interpretation clause provides that the word "'Person' shall include Body Corporate":—(§ 2.)

^c For provisions for Recovery of Penalties, see in the act "Part X.—Legal Procedure," § 517 *et seq.*

XV.—TRAFFIC REGULATION.

17 & 18 VICT., CAP. 31.

An Act for the better Regulation of the Traffic on Railways and Canals.

[10th July, 1854.]

WHEREAS it is expedient to make better Provision for regulating the Traffic on Railways and Canals: Be it enacted^a....as follows:

Interpreta-
tion:
"Board of
Trade:"

1. In the Construction of this Act,
"The Board of Trade" shall mean the Lords of the Committee of Her Majesty's Privy Council for Trade and Foreign Plantations:

"Traffic:"

The Word "Traffic" shall include not only Passengers and their Luggage, and Goods, Animals, and other Things conveyed by any Railway Company or Canal Company, or Railway and Canal Company, but also Carriages, Waggons, Trucks, Boats, and Vehicles of every Description adapted for running or passing on the Railway or Canal of any such Company:

"Railway:"

The Word "Railway" shall include every Station of or belonging to such Railway, used for the Purposes of public Traffic: and

"Canal."

The Word "Canal" shall include any Navigation whercon Tolls are levied by Authority of Parliament, and also the Wharves and Landing Places of and belonging to such Canal or Navigation, and used for the Purposes of public Traffic:

"Company "

The Expression "Railway Company," "Canal Company," or "Railway and Canal Company," shall include any Person being the Owner or Lessee of, or any Contractor working, any Railway or Canal

^a See note ^a in p. 1.

or Navigation constructed or carried on under the Powers of any Act of Parliament:

A Station, Terminus, or Wharf shall be deemed to be near another Station, Terminus, or Wharf when the Distance between such Stations, Termini, or Wharves shall not exceed One Mile, such Stations not being situate within Five Miles from *St. Paul's Church, in London.*

"Near" a Station, Terminus, or Wharf, out of London.

2. Every Railway Company, Canal Company, and Railway and Canal Company, shall, according to their respective Powers, afford all reasonable Facilities for the receiving and forwarding and delivering of Traffic, upon and from the several Railways and Canals belonging to or worked by such Companies respectively, and for the Return of Carriages, Trucks, Boats, and other Vehicles; and no such Company shall make or give any undue or unreasonable Preference or Advantage to or in favour of any particular Person or Company, or any particular Description of Traffic, in any respect whatsoever; nor shall any such Company subject any particular Person or Company, or any particular Description of Traffic, to any undue or unreasonable Prejudice or Disadvantage in any respect whatsoever; and every Railway Company, and Canal Company, and Railway and Canal Company, having or working Railways or Canals which form Part of a continuous Line of Railway or Canal or Railway and Canal Communication, or which have the Terminus, Station, or Wharf of the one near^a the Terminus, Station or Wharf of the other, shall afford all due and reasonable Facilities for receiving and forwarding all the Traffic arriving by one of such Railways or Canals, by the other, without any unreasonable Delay, and without any such Preference or Advantage, or Prejudice or Disadvantage, as aforesaid, and so that no Obstruction may be offered to the Public desirous of using such Railways or Canals, or Railways and Canals, as a con-

Companies to arrange for receiving and forwarding Traffic, on Lines or Navigations worked by them, without Partiality:

and without unreasonable delay, Preference, or Prejudice, where different Companies work together.

^a See interpretation of word "near," in § 1.

tinuous Line of Communication, and so that all reasonable Accommodation may, by means of the Railways and Canals of the several Companies, be at all Times afforded to the Public in that Behalf*.

Parties complaining of acts or omissions in violation of this act, may apply, summarily, to Superior Courts

and on Certificate of Board of Trade, Attorney General, &c., may also apply

Powers and Mode of Inquiry by Court

Injunction,

3. It shall be lawful for any Company or Person complaining against any such Companies or Company of anything done, or of any Omission made in Violation or Contravention of this Act, to apply in a summary Way, by Motion or Summons, in *England*, to Her Majesty's Court of Common Pleas at *Westminster*, or in *Ireland* to any of Her Majesty's Superior Courts in *Dublin*, or in *Scotland* to the Court of Session in *Scotland*, as the Case may be, or to any Judge of any such Court; and upon the Certificate to Her Majesty's Attorney General in *England* or *Ireland*, or Her Majesty's Lord Advocate in *Scotland*, of the Board of Trade, alleging any such Violation or Contravention of this Act by any such Companies or Company, it shall also be lawful for the said Attorney General or Lord Advocate to apply in like Manner to any such Court or Judge; and in either of such Cases, it shall be lawful for such Court or Judge to hear and determine the Matter of such Complaint: and for that Purpose, if such Court or Judge shall think fit, to direct and prosecute, in such Mode and by such Engineers, Barristers, or other Persons as they shall think proper, all such Inquiries as may be deemed necessary to enable such Court or Judge to form a just Judgment on the Matter of such Complaint; and if it be made to appear to such Court or Judge on such Hearing, or on the Report of any such Person, that anything has been done or Omission made, in Violation or Contravention of this Act, by such Company or Companies, it shall be lawful for such Court or Judge to issue a Writ of Injunction or Interdict, restraining such Company or Companies from further continuing such Violation or Contravention of this Act, and enjoining

* See also 8 & 9 Vict. c. 42, § 4, as to Tolls, in reference to Canal Companies (VIII. 4.)

Obedience to the same; and in case of Disobedience of any such Writ of Injunction or Interdict, it shall be lawful for such Court or Judge to order that a Writ or Writs of Attachment, or any other Process of such Court incident or applicable to Writs of Injunction or Interdict, shall issue against any One or more of the Directors of any Company, or against any Owner, Lessee, Contractor, or other Person failing to obey such Writ of Injunction or Interdict; and such Court or Judge may also, if they or he shall think fit, make an Order directing the Payment, by any One or more of such Companies, of such Sum of Money as such Court or Judge shall determine, not exceeding for each Company the Sum of Two Hundred Pounds for every Day, after a Day to be named in the Order, that such Company or Companies shall fail to obey such Injunction or Interdict; and such Monies shall be payable as the Court or Judge may direct, either to the Party complaining, or into Court to abide the ultimate Decision of the Court, or to Her Majesty; and Payment thereof may, without Prejudice to any other Mode of recovering the same, be enforced by Attachment or Order in the Nature of a Writ of Execution, in like Manner as if the same had been recovered by Decree or Judgment in any Superior Court at *Westminster* or *Dublin*, in *England* or *Ireland*, and in *Scotland* by such Diligence as is competent on an extracted Decree of the Court of Session; and in any such Proceeding as aforesaid, such Court or Judge may order and determine that all or any Costs thereof, or thereon incurred, shall and may be paid by or to the One Party or the other, as such Court or Judge shall think fit; and it shall be lawful for any such Engineer, Barrister, or other Person, if directed so to do by such Court or Judge, to receive Evidence on Oath relating to the Matter of any such Inquiry, and to administer such Oath.

4. It shall be lawful for the said Court of Common Pleas at *Westminster*, or any Three of the Judges

Attachment;

Penalties;

Costs.

Engineers, &c., employed by Court may take Evidence on oath.

Judges may make Regulations for

Proceedings
under this
Act.

thereof, of whom the Chief Justice shall be One, and it shall be lawful for the said Courts in *Dublin*, or any Nine of the Judges thereof, of whom the Lord Chancellor, the Master of the Rolls, the Lords Chief Justice of the Queen's Bench and Common Pleas, and the Lord Chief Baron of the Exchequer, shall be Five, from Time to Time to make all such General Rules and Orders as to the Forms of Proceedings and Process, and all other Matters and Things touching the Practice, and otherwise in carrying this Act into execution, before such Courts and Judges, as they may think fit, in *England* or *Ireland*; and in *Scotland*, it shall be lawful for the Court of Session to make such Acts of Sederunt for the like Purpose as they shall think fit.

Court may
order a Re-
hearing, on
application
of party
aggrieved.

5. Upon the Application of any Party aggrieved by the Order made upon any such Motion or Summons as aforesaid, it shall be lawful for the Court or Judge by whom such Order was made, to direct, if they think fit so to do, such Motion or Application on Summons to be reheard before such Court or Judge, and upon such Rehearing to rescind or vary such Order.

Existing
Rights and
Remedies
against Com-
panies not
affected.

6. No Proceeding shall be taken for any Violation or Contravention of the above Enactments, except in the Manner herein provided; but nothing herein contained shall take away or diminish any Rights, Remedies, or Privileges of any Person or Company against any Railway or Canal or Railway and Canal Company under the existing Law.

Liability of
Company for
injury to
Cattle, Goods,
&c., through
Neglect or
Default on
their part,
notwith-
standing any
Notice of the
Company to
the contrary.

7. Every such Company as aforesaid shall be liable for the Loss of, or for any Injury done to, any Horses, Cattle, or other Animals, or to any Articles, Goods, or Things, in the receiving, forwarding, or delivering thereof, occasioned by the Neglect or Default of such Company or its Servants, notwithstanding any Notice, Condition, or Declaration made and given by such Company contrary thereto, or in anywise limiting such Liability; every such Notice, Condition, or Declaration being hereby declared to be null and void: Provided

Previous.

always, that nothing herein contained shall be construed to prevent the said Companies from making such Conditions with respect to the receiving, forwarding, and delivering of any of the said Animals, Articles, Goods, or Things, as shall be adjudged, by the Court or Judge before whom any Question relating thereto shall be tried, to be just and reasonable: Provided always, that no greater Damages shall be recovered for the Loss of or for any Injury done to any of such Animals, beyond the Sums herein-after mentioned; that is to say, for any Horse, Fifty Pounds; for any Neat Cattle, *per* Head, Fifteen Pounds; for any Sheep or Pigs, *per* Head, Two Pounds; unless the Person sending or delivering the same to such Company shall, at the Time of such Delivery, have declared them to be respectively of higher Value than as above mentioned; in which Case, it shall be lawful for such Company to demand and receive by way of Compensation for the increased Risk and Care thereby occasioned, a reasonable Per-centage upon the Excess of the Value so declared above the respective Sums so limited as aforesaid, and which shall be paid in addition to the ordinary Rate of Charge; and such Percentage or increased Rate of Charge shall be notified^a in the Manner prescribed in the Statute Eleventh *George* Fourth and First *William* Fourth, Chapter Sixty-eight^b, and shall be binding upon such Company in the Manner therein mentioned: Provided also, that the Proof of the Value of such Animals, Articles, Goods, and Things, and the Amount of the Injury done thereto, shall in all Cases lie upon the Person claiming Compensation for such Loss or Injury: Provided also, that no special Contract between such Company and any other Parties respecting the receiving, forwarding, or delivering of any Animals, Articles, Goods, or Things as aforesaid

Limitation of amount of liability for Cattle, &c., unless the Value be declared and extra Payment made :

Rates of extra payment to be publicly notified.

Proof of Value and Loss to lie on the Person claiming Compensation. No special Contract to be binding unless signed.

^a For a form of notification that may be used under this section, see Appendix.

^b Carriers Act, 1 Wm. 4, c. 68; (App., XVII.) : for a Form of Notification under its provisions, see also Appendix.

Saving of
Carriers Act,
1 W. 4. c. 68.

shall be binding upon or affect any such Party unless the same be signed by him or by the Person delivering such Animals, Articles, Goods, or Things respectively for Carriage: Provided also, that nothing herein contained shall alter or affect the Rights, Privileges, or Liabilities of any such Company under the said Act of the Eleventh George Fourth and First William Fourth, Chapter Sixty-eight^a, with respect to Articles of the Descriptions mentioned in the said Act.

Short Title.

8. This Act may be cited for all Purposes as "The Railway and Canal Traffic Act, 1854."

XVI.—CHEAP TRAINS AND CANALS ACT, 1858.

21 & 22 VICT. CAP. 75.

An Act to amend the Law relating to Cheap Trains, and to restrain the Exercise of certain Powers by Canal Companies being also Railway Companies.

[2nd August, 1858.]

7 & 8 Vict.
c. 85.

WHEREAS by the Act passed in the Session of Parliament held in the Seventh and Eighth Years of the Reign of Her present Majesty, Chapter Eighty-five, Section Six, it is enacted^b, amongst other Things, with respect to the Cheap Trains thereby required to be provided in certain Cases, that the Fare or Charge for each Third-Class Passenger by any such Train shall not exceed One Penny for each Mile travelled^b: And whereas it is expedient to amend the said Act in Manner herein-after mentioned: And whereas it is also expedient to amend

^a Carriers Act, 1 Wm. 4, c. 68; (App., XVII.)

^b § 6 & 10 of 7 & 8 Vic. c. 85 (VI. 6, 10).

the Act passed in the Ninth Year of the Reign of Her present Majesty, Chapter Forty-two, intituled *An Act to enable Canal Companies to become Carriers of Goods upon their Canals*, by restraining as herein-after mentioned the exercise of certain Powers therein contained^a: Be it enacted^b....as follows:

1. When the Distance travelled by any Third-Class Passenger by any Train run in compliance with the Provisions relating to Cheap Trains^c contained in the said Act of the Seventh and Eighth of *Victoria*, Chapter Eighty-five, is a Portion of a Mile, and does not amount to One Mile, the Fare for such Portion of a Mile may be One Penny; or when such Distance amounts to One Mile, or Two or more Miles, and a Portion of another Mile, the Fare or Charge for such Portion of a Mile, if the same amounts to or exceeds One Half Mile, may be One Halfpenny^d: Provided always, that for Children of Three Years and upwards, but under Twelve Years of Age, the Fare or Charge shall not exceed Half the Charge for an adult Passenger.

Parliamentary Fares: for Fractions where the whole distance is under One Mile, 1d.; for Fractions amounting to Half a Mile, where the whole Distance exceeds a Mile, ½d.; Half for children.

2. After the passing of this Act, no Fare heretofore charged to or received from any Third-Class Passenger by any such Train as aforesaid, shall, in any Proceeding to be hereafter instituted, be deemed to have exceeded the Rate prescribed in such Case by the said Act of the Seventh and Eighth of *Victoria*, Chapter Eighty-five^e, if the same shall not have exceeded the Rate of One Farthing for each entire Quarter of a Mile travelled.

Past charges: no Action maintainable where charges have not exceeded ½d. for ¼ Mile.

3. Notwithstanding anything contained in the said recited Act of the Ninth Year of Her Majesty^a, it shall not be lawful for any Canal or Navigation Company, being also a Railway Company or entitled to work any Railway constructed under the Authority of any Act of

Canal Companies, being also Railway Companies, not to take Leases of Canals unless specially authorized.

^a 8 & 9 Vic. c. 42, § 8, 9 (VIII., p. 203-4).

^b See note ^a in p. 1.

^c 7 & 8 Vic. c. 85, § 6 & 10 (VI., 6, 10.)

^d No charge for fractions under half a mile, except where the whole distance travelled is under one mile; and in that case, 1d. as for a mile, under previous part of section.

Parliament, hereafter to accept a Lease of the whole or any Part of the Undertaking of any other Railway and Canal Company, or of any Canal or Navigation Company, or of the Tolls, Dues, or Charges upon or in respect of the whole or any Part of any such Undertaking, except under the Powers of some Act or Acts heretofore passed, or to be hereafter passed, in which the Parties to any such Lease shall be specifically named and authorized to enter into the same.

*Duration of
Act, One
Year and a
Session.*

4. This Act shall continue in force for One Year next after the passing thereof, and thence to the End of the then next Session of Parliament.

APPENDIX.

XVII.—CARRIERS ACT, 1830.

1 Wm. 4, CAP. 68.

An Act for the more effectual Protection of Mail Contractors, Stage Coach Proprietors, and other Common Carriers for Hire, against the Loss of or Injury to Parcels or Packages delivered to them for Conveyance or Custody, the Value and Contents of which shall not be declared to them by the Owners thereof^a.

[23rd July, 1830.]

WHEREAS by reason of the frequent Practice of Bankers and others of sending by the public Mails, Stage Coaches, Wag-gons, Vans, and other public Conveyances by Land for Hire, Parcels and Packages containing Money, Bills, Notes, Jewellery, and other Articles of great Value in small Compass, much valuable Property is rendered liable to Depredation, and the Responsibility of Mail Contractors, Stage Coach Proprietors, and Common Carriers for Hire is greatly increased: And whereas, through the frequent Omission by Persons sending such Parcels and Packages to notify the Value and Nature of the Contents thereof, so as to enable such Mail Contractors, Stage Coach Proprietors and other Common Carriers, by due Diligence, to protect themselves against Losses arising from their legal Responsibility, and the Difficulty of fixing Parties with Knowledge of Notices published by such Mail Contractors, Stage Coach Proprietors, and other Common Carriers, with the Intent to limit such Responsibility, they have become exposed to great and unavoidable Risks, and have thereby

*Carriers
Act, 1830.*

^a See 17 & 18 Vic. c. 31, § 7 (XV., p. 223); and 8 & 9 Vic. c. 42, § 6 (VIII., p. 202).

Carriers,
Mail and
Coach Pro-
prietors, &c.
not liable for
Loss of open
and kinds of
Goods above
the Value of
£10, unless
delivered as
such, and
increased
Charge for
same ac-
cepted.

sustained heavy Losses : Be it therefore enacted by the King's most Excellent Majesty, by and with... That from and after the passing of this Act, no Mail Contractor, Stage Coach Proprietor, or other Common Carrier by Land for Hire, shall be liable for the Loss of or Injury to any Article or Articles or Property of the Descriptions following ; that is to say, Gold or Silver Coin of this Realm or of any Foreign State, or any Gold or Silver in a manufactured or unmanufactured State, or any Precious Stones, Jewellery, Watches, Clocks, or Timepieces of any Description, Trinkets, Bills, Notes of the Governor and Company of the Banks of *England, Scotland, and Ireland* respectively, or of any other Bank in *Great Britain or Ireland*, Orders, Notes, or Securities for Payment of Money, English or Foreign Stamps, Maps, Writings, Title Deeds, Paintings, Engravings, Pictures, Gold or Silver Plate or plated Articles, Glass, China, Silks in a manufactured or unmanufactured State, and whether wrought up or not wrought up with other Materials, Furs, or Lace, or any of them, contained in any Parcel or Package which shall have been delivered, either to be carried for Hire or to accompany the Person of any Passenger in any Mail or Stage Coach or other public Conveyance, when the Value of such Article or Articles or Property aforesaid contained in such Parcel or Package shall exceed the Sum of Ten Pounds, unless at the Time of the Delivery thereof at the Office, Warehouse, or Receiving House of such Mail Contractor, Stage Coach Proprietor, or other Common Carrier, or to his, her, or their Book-keeper, Coachman, or other Servant, for the Purpose of being carried or of accompanying the Person of any Passenger as aforesaid, the Value and Nature of such Article or Articles or Property shall have been declared by the Person or Persons sending or delivering the same, and such increased Charge as herein-after mentioned^a, or an Engagement to pay the same, be accepted by the Person receiving such Parcel or Package.

Increased
Rate of
Charge which
may be de-
manded for
such Goods

2 .When any Parcel or Package containing any of the Articles above specified shall be so delivered, and its Value and Contents declared as aforesaid, and such Value shall exceed the sum of Ten Pounds, it shall be lawful for such Mail Contractors, Stage Coach Proprietors, and other Common Car-

^a See note * in p. 1.

^b § 2.

riers to demand and receive an increased Rate of Charge, to be notified by some Notice^a affixed in legible Character in some public and conspicuous Part of the Office, Warehouse, or other Receiving House where such Parcels or Packages are received by them for the Purpose of Conveyance, stating the increased Rates of Charge required to be paid over and above the ordinary Rate of Carriage, as a Compensation for the greater Risk and Care to be taken for the safe Conveyance of such valuable Articles ; and all Persons sending or delivering Parcels or Packages containing such valuable Articles as aforesaid at such Office shall be bound by such Notice^a, without further Proof of the same having come to their Knowledge.

Notice of increased Rates to be affixed in Offices or Warehouses.

Parties bound by such Notice.

3. Provided always, and be it further enacted, That when the Value shall have been so declared, and the increased Rate of Charge paid, or an Engagement to pay the same shall have been accepted as herein-before mentioned^b, the Person receiving such increased Rate of Charge or accepting such Agreement, shall, if thereto required, sign a Receipt for the Package or Parcel, acknowledging the same to have been insured, which Receipt shall not be liable to any Stamp Duty ; and if such Receipt shall not be given when required, or such Notice as aforesaid^c shall not have been affixed, the Mail Contractor, Stage Coach Proprietor, or other Common Carrier as aforesaid, shall not have or be entitled to any Benefit or Advantage under this Act, but shall be liable and responsible as at the Common Law, and be liable to refund the increased Rate of Charge.

Carriers to give Receipts for such Goods, acknowledging insurance thereof by the increased rate :

In case of not giving Receipt or affixing Notice, Carrier, &c. not entitled to benefit of this Act.

4. Provided always, and be it enacted, That from and after the First Day of *September* now next ensuing, no public Notice or Declaration heretofore made or hereafter to be made shall be deemed or construed to limit or in anywise affect the Liability at Common Law of any such Mail Contractors, Stage Coach Proprietors, or other public Common Carriers as aforesaid, for or in respect of any Articles or Goods to be carried and conveyed by them ; but that all and every such Mail Contractors, Stage Coach Proprietors, and other Common Carriers as aforesaid shall from and after the said First Day of *September* be liable, as at the Common Law, to answer for

Publication of Notices not to limit the Liability of Carriers, &c. in respect of Goods generally.

^a For a Form of Notice that may be adopted under this section, see *post*, under "Forms."

^b § 1.

^c § 2.

the Loss of any Injury to^a any Articles and Goods in respect whereof they may not be entitled to the Benefit of this Act, any public Notice or Declaration by them made and given contrary thereto, or in anywise limiting such Liability, notwithstanding.

Every Office used to be deemed a Receiving House, &c.,

and any One Coach Proprietor or Carrier shall be liable to be sued, although partners not named.

Special Contracts not to be affected.

Parties recovering Damages for Loss or Injury may also recover back extra Charges.

Nothing herein to protect felonious Acts by Servants of Carrier, &c.

5...For the Purposes of this Act, every Office, Warehouse, or Receiving House which shall be used or appointed by any Mail Contractor or Stage Coach Proprietor or other such Common Carrier as aforesaid, for the receiving of Parcels to be conveyed as aforesaid, shall be deemed and taken to be the Receiving House, Warehouse, or Office of such Mail Contractor, Stage Coach Proprietor, or other Common Carrier; and any One or more of such Mail Contractors, Stage Coach Proprietors, or Common Carrier^b shall be liable to be sued by his, her, or their Name or Names only; and no Action or Suit commenced to recover Damages for Loss or Injury to any Parcel, Package, or Person, shall abate for the Want of joining any Co-Proprietor or Co-Partner in such Mail, Stage Coach, or other public Conveyance by Land for Hire as aforesaid.

6. Provided always, and be it further enacted, That nothing in this Act contained shall extend or be construed to annul or in anywise affect any special Contract between such Mail Contractor, Stage Coach Proprietor, or Common Carrier, and any other Parties, for the Conveyance of Goods and Merchandises.

7. Provided also, and be it further enacted, That where any Parcel or Package shall have been delivered at any such Office, and the Value and Contents declared as aforesaid, and the increased Rate of Charges^c been paid, and such Parcels or Packages shall have been lost or damaged, the Party entitled to recover Damages in respect of such Loss or Damage shall also be entitled to recover back such increased Charges so paid as aforesaid, in Addition to the Value of such Parcel or Package.

8. Provided also, and be it further enacted, That nothing in this Act shall be deemed to protect any Mail Contractor, Stage Coach Proprietor, or other Common Carrier for Hire, from Liability to answer for Loss or Injury to any Goods or Articles whatsoever arising from the felonious Acts of any Coachman, Guard, Book-keeper, Porter, or other Servant in his or their Employ, nor to protect any such Coachman, Guard, Book-

^a Sic: "the Loss of or any Injury to"? ^b Sic: "Carriers"? ^c § 2.

keeper, or other Servant from Liability for any Loss or Injury occasioned by his or their own personal Neglect or Misconduct.

9. Provided also, and be it further enacted, That such Mail Contractors, Stage Coach Proprietors, or other Common Carriers for Hire shall not be concluded as to the Value of any such Parcel or Package, by the Value so declared as aforesaid; but that he or they shall in all Cases be entitled to require, from the Party suing in respect of any Loss or Injury, Proof of the actual Value of the Contents, by the ordinary legal Evidence; and that the Mail Contractors, Stage Coach Proprietors, or other Common Carriers as aforesaid shall be liable to such Damages only as shall be so proved as aforesaid, not exceeding the declared Value, together with the increased Charges as before mentioned^a.

Carriers, &c. not concluded by declared value; but may require proof of value, and liable only to Damages proved.

10...In all Actions to be brought against any such Mail Contractor, Stage Coach Proprietor, or other Common Carrier as aforesaid, for the Loss of or Injury to any Goods delivered to be carried, whether the Value of such Goods shall have been declared or not, it shall be lawful for the Defendant or Defendants to pay Money into Court, in the same Manner and with the same Effect as Money may be paid into Court in any other Action.

Money may be paid into Court in Actions against Carriers, &c. for Loss of Goods.

11...This Act shall be deemed and taken to be a Public Act, and shall be judicially taken Notice of as such by all Judges, Justices, and others, without being specially pleaded.

Public Act

XVIII.—PASSENGER TAX.

5 & 6 VICT., CAP. 79.

An Act to repeal the Duties payable on Stage Carriages and on Passengers conveyed upon Railways, and certain other Stamp Duties in *Great Britain*, and to grant other Duties in lieu thereof; and also to amend the Laws relating to the Stamp Duties.

[5th August, 1842.]

EXTRACTS, relating to Railways.

This act recites the statutes 55 Geo. 3, c. 184,—2 & 3 Wm. 4, c. 120,—and 2 & 3 Vic. c. 66, imposing certain stamp and

other duties, including a duty in respect of passengers by Railways imposed by the act of Wm. 4; and § 1 repeals, amongst others, "the aforesaid Duties granted and imposed "by the said Act passed in the Second and Third Years of "the Reign of His late Majesty King William the Fourth,... "for and in respect of Passengers conveyed for Hire along any "Railway in Great Britain." The act then enacts as follows. It applies to Great Britain only, and not to Ireland.

duties on
 railway
 passengers,
 &c. : see in
 schedule.

"§ 2...In lieu of the Duties by this Act repealed, there shall be raised, levied, collected, and paid, unto and for the Use of Her Majesty, Her Heirs and Successors, in and throughout Great Britain, for and in respect of every Licence for keeping, using, or employing any Stage Carriage in Great Britain, and for and in respect of every Stage Carriage, and for and in respect of the Passengers conveyed upon any Railway^a, and also for and in respect of the several Instruments, Matters, and Things mentioned and described in the Schedule to this Act annexed^b, or for or in respect of the Vellum, Parchment, or Paper upon which such Instruments, Matters, and Things, or any of them, shall be written or printed, the several Duties or Sums of Money set down in Figures against the same respectively, or otherwise specified and set forth in the same Schedule^b; and that the said Schedule shall be deemed and taken to be a Part of this Act; and that all the said Duties shall be under the Care and Management of the Commissioners of Stamps and Taxes^c for the Time being, and shall be denominated and deemed to be Stamp Duties."

Section 3 relates not to Railways but to the description of Stamps and Dies, &c., to be used in certain cases.

^a But under 7 & 8 Vic. c. 85, § 9, no tax is to be levied in respect of passengers conveyed at fares not exceeding a penny per mile by the cheap trains prescribed by § 6-10 of that act: (V. 9, p. 47).

^b Extract from Schedule, so far as relates to Railways, p. 239.

^c These duties are now under "the Commissioners of Inland Revenue."

By an act of 1847, (11 & 12 Vic. c. 42,) the collection and management of the Duties in respect of Railway Passengers, and some others, were transferred (§ 1,) from the Commissioners of Stamps and Taxes to the Commissioners of Excise, by whom and their Officers the powers and provisions relating to such duties were to be carried into effect (§ 2); and § 3 of the same act provided that Bonds and Securities previously given by Railway Companies, to pay and

“§ 4...The Proprietor or Company of Proprietors of every Railway in *Great Britain*, and every other Person who shall carry or convey, or cause to be carried or conveyed, any Passenger for Hire in or upon any Railway in *Great Britain*, shall from Time to Time and at all Times, keep and enter or cause to be entered in a Book or Books to be kept for that Purpose, in such Manner and Form as the Commissioners of Stamps and Taxes^a shall direct or approve, a just and true Account of all and every Sum and Sums of Money which shall be received or charged daily by or for such Proprietor or Company or other Person for the Hire, Fare, or Conveyance of all such Passengers as aforesaid, whether the same shall be received for the Conveyance of Passengers on the Railway of such Proprietor or Company or other Person only, or on such last-mentioned Railway and any other Railway, or on any such other Railway only^b, and for or in respect of all which Sums of Money the Duties charged by this Act shall, in manner herein-after directed, be paid by the said Proprietor or Company or other Person so receiving or charging the same as aforesaid, without any Deduction or Abatement thereout on any Account or Pretence whatever; and the Proprietor or Company of Proprietors of any Railway so receiving or charging any such Sums of Money as aforesaid shall also in like Manner keep and enter or cause to be entered an Account of all Sums of Money paid or accounted for, or to be paid or accounted for, by such Proprietor or Company to the Proprietor or Company of Proprietors of any other Railway (specifying the same) upon which any of such Passengers shall be carried or conveyed, as his or their Share or Proportion of any such Sums of Money so received or charged as aforesaid, or as or for or in the Nature of Toll or otherwise for the Use

Accounts to be kept by Railway Companies of Passenger Receipts;

whether for their own or other Railways;

and of Money paid by Companies to other Companies for Passengers :

account for such duties, should be equally applicable and remain in force after the transfer of the duties to the Excise Commissioners.

By a subsequent act of 1849 (12 Vic. c. 1) the Boards of Excise and of Stamps and Taxes are consolidated into one Board, styled “the Commissioners of Inland Revenue,” (§ 1); and all the Powers and Authorities vested in the two previous Boards are to be exercised by the latter (§ 3). Provision is made (in § 17) for the interpretation accordingly, of all Bonds and Securities previously given, as if given to the Commissioners of Inland Revenue and their officers.

^a See note ^c, *supra*.

^b See act regulating the Railway Clearing House System, which has been established mainly for such purposes as those here described, for the settlement of traffic accounts between different companies: 13 & 14 Vic. cap. xxxiii. (post, XXXI.)

Monthly
Copies of
Accounts to
be delivered
to Inland
Revenue
Commissioners.

verified by
affidavit.

and shall pay
the Duty
Monthly on
delivery of
such ac-
counts.

of such last-mentioned Railway, in the Conveyance of such Passengers^a; and the Proprietor or Company of Proprietors of every such last-mentioned Railway shall in like Manner keep and enter or cause to be entered an Account of all Sums of Money so paid or accounted for to him or them as last aforesaid, and for or in respect of which the Duties shall or ought to have been paid as aforesaid by such first-mentioned Proprietor or Company^b; and every such Proprietor and Company and other Person and Persons respectively shall, within Five Days after the First Monday in every Calendar Month, deliver to the Commissioners of Stamps and Taxes^c, or to the proper Officer appointed for receiving the same, a true Copy or true Copies of the Account or Accounts by this Act directed to be kept, so far as the same shall relate to all Sums of Money received or charged and paid or accounted for as aforesaid during the preceding Four or Five Weeks, as the Case may be; that is to say, from and including the First Monday in the preceding Month up to the First Monday of the Month in which such Account shall be rendered or ought to be rendered as aforesaid; and to and with every such Account there shall be annexed and delivered an Affidavit (to be taken before any One of Her Majesty's Justices of the Peace) of such Proprietor or other Person as aforesaid, or of the Secretary, Chief Clerk, or Accountant of such Proprietor or Company or other Person, stating that the Deponent is well acquainted with the Books and Accounts of the said Proprietor, Company, or other Person, and that he has examined and checked the same, and also the Account to which such Affidavit is annexed, and that, to the best of His Knowledge, Information, and Belief, such last-mentioned Account doth contain and is a true and faithful Account of all and every Sum and Sums of Money received or charged by or for such Proprietor or Company or other Person aforesaid, for the Hire, Fare, or Conveyance of Passengers on any Railway during the Period comprised in such Account, and of all other Matters and Things required by this Act to be contained in such Account; and such Proprietor or Company or other Person shall, at the Time of delivering every such Account, pay or cause to be paid to the Receiver General of

^a See note ^b, in p. 233.

^b See note ^c, in p. 232.

Stamps and Taxes, or to the Officer authorized by the said Commissioners^a to receive the same, for the Use of Her Majesty, the Duties chargeable under this Act for or in respect of all and every the Sum and Sums of Money so received or charged as aforesaid, and contained or which ought to be contained in such Account.

“5. Provided always, and be it enacted, That it shall be lawful (where there shall be no express Contract or Agreement between the Parties to the contrary) for any such Proprietor or Company to deduct from and retain out of the Monies to be paid over to any such other Proprietor or Company as aforesaid, the Amount of the Duties by this Act chargeable thereon, and which such Proprietor or Company receiving such Monies shall have paid or be liable to pay.

Companies may deduct the Duty on the Sums to be paid over by them to other Railways.

“6...All and every the Book and Books of every such Proprietor or Company or other Person, in which any Account relating to such Passengers, or to the Money received or charged for the Hire, Fare, or Conveyance of the same, or to any Money received from or paid or accounted for to any other Proprietor or Company for such Hire, Fare, or Conveyance as aforesaid, or a Proportion thereof, or as or for such Toll as aforesaid, shall be entered or kept, shall be open for the Inspection and Examination, at all seasonable Times, of any Officer or Officers of Stamp Duties authorized by the Commissioners of Stamps and Taxes^a in that Behalf; and every such Officer shall be at liberty to take Copies of or Extracts from any such Book or Account as aforesaid; and if any such Proprietor or other Person, or the Secretary or Accountant, or any Clerk or Officer of any such Proprietor or Company or Person, having or keeping the Custody or Possession of any such Book, or having Power to produce the same, shall, upon Demand made by any such Officer, and upon producing and showing his Authority, refuse to permit such Officer of Stamp Duties to inspect and examine such Book, or to take Copies thereof or Extracts therefrom, or of or from any Account entered or contained therein, or shall refuse to produce such Book to such Officer of Stamp Duties for his Inspection and Examination, every such Person so offending shall for every such Offence forfeit the Sum of Fifty Pounds.

Account Books to be open to Inspection by Revenue Officers;

Penalty for refusing to permit Inspection.

^a See note ^c, in p. 232.

Bond of
Security for
the Duties,
to be given
by Railway
Companies,
&c.

"7...The Proprietor or Company of Proprietors of every such Railway, and every other Person, before any Passengers shall be conveyed or cause to be conveyed by him or them on any Railway as aforesaid, shall give Security, by Bond to Her Majesty, Her Heirs and Successors, with a Condition that such Proprietor or Company, or other Person as aforesaid shall from Time to Time enter and keep, and cause to be kept and rendered, in the Manner directed by this Act, the Account by this Act required^a to be kept and rendered by such Proprietor and Company and Persons respectively, containing and setting forth justly, truly, and faithfully, all the several Matters and Things by this Act required to be contained and set forth therein; and that such Proprietor or Company or Person and his or their Secretary, Accountant, and Clerk, and every other Person under or subject to his or their Order, Direction, or Control, having the Custody or Possession of any Book or Book of such Proprietor or Company or other Person as aforesaid, in which any Account relating to any Passengers conveyed upon any Railway, or the Money received, charged, accounted for, or paid for the Hire, Fare, or Conveyance of the same, shall be contained or entered, shall from Time to Time, upon every reasonable Request of any Officer of Stamp Duties^b authorized as aforesaid, produce and show to such Officer, and permit him to inspect and examine the same, and to take Copies thereof or Extracts therefrom, and of and from any Account entered or contained therein, and that such Proprietor or Company or other Person aforesaid shall and will well and truly pay or cause to be paid, for the Use of Her Majesty, Her Heirs and Successors, at the Times and in Manner directed by this Act, all and every the Duties which shall from Time to Time become chargeable under this Act, and payable by him or them upon or for or in respect of the Passengers, or the Hire or Fare or Conveyance of the Passengers, which shall be so conveyed as aforesaid along any Railway; and that such Proprietor or Company, or other Person aforesaid, shall well and truly do and perform, and cause to be done and performed, all such Acts, Matters, and Things as by this Act are required or directed to be done or performed by or on the Part or Behalf of such Proprietors or Company or other

^a See note ^c, in p. 232.

^b § 4-6.

Every such Bond shall be taken with sufficient the Satisfaction of the Commissioners of Stamps and in such Sum as the said Commissioners may reasonable and proper ; and every such Security renewed from Time to Time, whenever and so often d shall be forfeited, or as the Parties to the same em shall die, or become Bankrupt or Insolvent, or rts beyond the Seas, and also whenever and so said Commissioners shall in their Discretion re-me to be renewed ; and if any Proprietor or Com-prietary of any such Railway, or other Person as shall convey or cause to be conveyed upon any Rail- passengers for Hire, without having first given such Bond to Her Majesty, in Manner herein-before if any Proprietor or Company of Proprietors of y shall permit or suffer any Passengers to be con- Hire upon such last-mentioned Railway, by any n or Company, before such other Person or Com- ave given Security as aforesaid, and before a Certi- d by the proper Officer of Stamp Duties* in that ich Certificate such Officer is hereby authorized d to give,) that such Security hath been given, een issued, or after Notice in Writing, signed by zed Officer of Stamp Duties, and delivered to the r Chief Clerk of the Proprietor or Company of Pro- such Railway, or left at the Office of such Railway erk or Officer there, that any such Security ought, e of this Act, to be renewed, or is required to be d before a Certificate, signed as aforesaid, that the een renewed, shall have been issued ; or if any such or Company of Proprietors, or other Person, shall egleect to renew such Security, whenever and so same is or shall by or in pursuance of this Act be be renewed, such Proprietor or Company or Per- rfeit the Sum of One hundred Pounds, and the of One hundred Pounds for every Day during the which there shall be any Refusal, Neglect, or De- e or renew such Security as aforesaid, or for every ich any such Passengers shall be permitted to be

Penalties for not giving Security before Passengers are carried, or for not renewing Security when required, £100 and £100 a day.

* See note *, in p. 232.

conveyed before such Security shall be given or renewed, and a Certificate thereof issued as aforesaid, according to the true Intent and Meaning of this Act."

Recovery and Application of Penalties under this Act.

Powers, Provisions, &c. of former Acts to continue in force.

"24...All pecuniary Penalties imposed by or which may be incurred under this Act, may be sued or prosecuted for and recovered by the same Ways and Means, and in the same Manner and Form, and be mitigated and applied as any other Penalty incurred under any Act relating to the Stamp Duties may be sued for, prosecuted, and recovered, mitigated and applied; and all the Powers, Provisions, Regulations, Forfeitures, Pains, and Penalties contained in or imposed by any Act or Acts in force with relation to any of the Duties under the Management of the Commissioners of Stamp Duties and Taxes*, so far as the same are or may be applicable in Cases not by this Act expressly provided for, and so far as the same shall not be superseded by, and as the same shall be consistent with, the express Provisions of this Act, shall be of full Force and Effect with respect to the Duties by this Act granted, and to the Matters and Things charged or chargeable therewith, in respect of which Duty is hereby granted, and shall be applied and put in execution for recovering, securing, and collecting the said Duties hereby granted, and for preventing, detecting, and punishing all Frauds, Forgeries, and other Offences relating thereto, as fully and effectually to all Intents and Purposes as if such Powers, Provisions, Regulations, Forfeitures, Pains, and Penalties had been repeated and specially enacted in this Act with reference to the Duties by this Act granted and made payable.

Interpretation.

It shall be construed as if it were a Statute in relation to Corporations.

"25...Wherever in this Act, with reference to any Person, Matter, or Thing, any Word or Words is or are used importing the Singular Number or the Masculine Gender only, yet such Word or Words shall be understood to include several Persons as well as One Person, Females as well as Males, Bodies Politic or Corporate as well as Individuals, and several Matters or Things as well as One Matter or Thing, unless it be otherwise specially provided, or there be something in the Subject or Context repugnant to such Construction."

* See note c, in p. 232.

SCHEDULE^aSchedule:
Rate of Pas-
senger Tax.

Containing the DUTIES by this Act granted on STAGE CARRIAGES; that is to say, * * *

And also the DUTIES in respect of PASSENGERS conveyed for Hire by CARRIAGES travelling upon RAILWAYS; that is to say,

For and in respect of all Passengers^b conveyed for Hire upon or along any Railway, a Duty at and after the Rate of £5 for £100 upon all Sums received or charged for the Hire, Fare, or Conveyance of all such Passengers.

* * * *

XIX.—LANDS CLAUSES ACT.

8 VICT. CAP. 18.

An Act for consolidating in One Act certain Provisions usually inserted in Acts authorizing the taking of Lands for Undertakings of a public Nature.

[8th May, 1845.]

WHEREAS it is expedient to comprise in One General Act sundry Provisions usually introduced into Acts of Parliament relative to the Acquisition of Lands required for Undertakings or Works of a public Nature, and to the Compensation to be made for the same, and that as well for the Purpose of avoiding the Necessity of repeating such Provisions in each of the several Acts relating to such Undertakings as for ensuring greater Uniformity in the Provisions themselves: May it therefore please Your Majesty that it may be enacted; and be it enacted^c...That this Act shall apply to every Undertaking authorized by any Act which shall hereafter be passed, and which shall authorize the Purchase or taking of Lands for such Undertaking; and this Act shall be incorporated with such Act; and all the Clauses and Provisions of this Act, save so far as they shall be expressly varied or excepted by any such Act, shall apply to the Undertaking authorized thereby,

Act to apply
to future
Under-
takings;
and be
incorporated.

^a § 2, (p. 232).

^b But under 7 & 8 Vic. c. 85, § 9, no tax is to be levied in respect of passengers conveyed at fares not exceeding a penny per mile by the cheap trains prescribed by § 6-10 of that act (V. 9, p. 47).

^c See note ^a, in p. 1.

so far as the same shall be applicable to such Undertaking and shall, as well as the Clauses and Provisions of every other Act which shall be incorporated with such Act, form Part of such Act, and be construed together therewith as forming One Act.

Construction of Act.

And with respect to the Construction of this Act and of Acts to be incorporated therewith, be it enacted as follows :

Interpretation of this Act. "the special Act."

"prescribed"

the Works "the Undertaking"

the Promoters of the Undertaking."

Interpretation of this Act and of the special Act

Number :

Gender.

"Lands."

Lease."

2. The Expression "the special Act," used in this Act, shall be construed to mean any Act which shall be hereafter passed which shall authorize the taking of Lands for the Undertaking to which the same relates, and with which this Act shall be so incorporated as aforesaid ; and the Word "prescribed," used in this Act in reference to any Matter herein stated, shall be construed to refer to such Matter as the same shall be prescribed or provided for in the special Act ; and the Sentence in which such Word shall occur shall be construed as if, instead of the Word "prescribed," the Expression "prescribed for that Purpose in the special Act" had been used, and the Expression "the Works" or "the Undertaking" shall mean the Works or Undertaking, of whatever Nature, which shall by the special Act be authorized to be executed and the Expression "the Promoters of the Undertaking" shall mean the Parties, whether Company, Undertakers, Commissioners, Trustees, Corporations, or private Persons, by the special Act empowered to execute such Works or Undertaking.

3. The following Words and Expressions, both in this and the special Act, shall have the several Meanings hereby assigned to them, unless there be something either in the Subject or Context repugnant to such Construction ; that is to say,

Words importing the Singular Number only shall include the Plural Number, and Words importing the Plural Number only shall include the Singular Number :

Words importing the Masculine Gender only shall include Females :

The Word "Lands" shall extend to Messuages, Lands Tenements, and Hereditaments of any Tenure :

The Word "Lease" shall include an Agreement for a Lease :

- The Word "Month" shall mean Calendar Month : "Month:"
- The Expression "Superior Courts" shall mean Her Majesty's Superior Courts of Record at *Westminster* or *Dublin*, as the Case may require : "Superior Courts:"
- The Word "Oath" shall include Affirmation in the Case of Quakers, or other Declaration lawfully substituted for an Oath in the Case of any other Persons exempted by Law from the Necessity of taking an Oath : "Oath:"
- The Word "County" shall include any Riding or other like Division of a County, and shall also include County of a City or County of a Town : "County:"
- The Word "Sheriff" shall include Under Sheriff, or other legally competent Deputy^a; and where any Matter in relation to any Lands is required to be done by any Sheriff or by any Clerk of the Peace, the Expression "the Sheriff," or the Expression "the Clerk of the Peace," shall in such Case be construed to mean the Sheriff or the Clerk of the Peace of the County, City, Borough, Liberty, Cinque Port, or Place where such Lands shall be situate; and if the Lands in question, being the Property of one and the same Party, be situate not wholly in one County, City, Borough, Liberty, Cinque Port, or Place, the same Expression shall be construed to mean the Sheriff or Clerk of the Peace of any County, City, Borough, Liberty, Cinque Port, or Place where any Part of such Lands shall be situate : "the Sheriff;" "Coroners:" "the Clerk of the Peace:"
- The Word "Justices" shall mean Justices of the Peace acting for the County, City, Liberty, Cinque Port, or Place where the Matter requiring the Cognizance of any such Justice shall arise, and who shall not be interested in the Matter; and where such Matter shall arise in respect of Lands being the Property of One and the same Party, situate not wholly in any One County, City, Borough, Liberty, Cinque Port, or Place, the same shall mean a Justice acting for the County, City, Borough, Liberty, Cinque Port, or Place where any Part of such Lands shall be situate, and who shall not be interested in such Matter; and where any Matter shall be authorized or required to be done by Two Justices, the Expres- "Justices:" "Two Justices:"

^a And in certain cases, the Coroner; see § 39, 40, (p. 252-3.)

- sion "Two Justices" shall be understood to mean Two Justices assembled and acting together :
- "Owner " Where, under the Provisions of this or the special Act, or any Act incorporated therewith, any Notice shall be required to be given to the Owner of any Lands, or where any Act shall be authorized or required to be done with the Consent of any such Owner, the Word "Owner" shall be understood to mean any Person or Corporation who, under the Provisions of this or the special Act, would be enabled to sell and convey Lands to the Promoters of the Undertaking :
- " the Bank. " The Expression "the Bank " shall mean the Bank of *England* where the same shall relate to Monies to be paid or deposited in respect of Lands situate in *England*, and shall mean the Bank of *Ireland* where the same shall relate to Monies to be paid or deposited in respect of Lands situate in *Ireland*^a.
- " Grants. " 4...In citing this Act in other Acts of Parliament, and in legal Instruments, it shall be sufficient to use the Expression "The Lands Clauses Consolidation Act, 1845."
- Short Title of Act. 5. And whereas it may be convenient in some Cases to incorporate with Acts of Parliament hereafter to be passed, some Portion only of the Provisions of this Act : Be it therefore enacted, That, for the Purpose of making any such Incorporation, it shall be sufficient in any such Act to enact that the Clauses of this Act with respect to the Matter so proposed to be incorporated (describing such Matter as it is described in this Act in the Words introductory to the Enactment with respect to such Matter^b) shall be incorporated with such Act ; and thereupon all the Clauses and Provisions of this Act with respect to the Matter so incorporated shall, save so far as they shall be expressly varied or excepted by such Act, form Part of such Act ; and such Act shall be construed as if the Substance of such Clauses and Provisions were set forth therein with reference to the Matter to which such Act shall relate.
- Manner in which Portions of this Act may be incorporated with other Acts.

^a And see construction of the word "Grant" in conveyances of superfluous lands, &c., by the Company to other parties; § 132 (p. 292.)

^b The " words introductory to the enactment " with respect to any matter in the act, are herein printed in *italic* type, as in case of the words introductory to § 6 *et seq.*, (p. 243)

And *with respect to the Purchase of Lands by Agreement*, be it enacted as follows: *Purchase of Lands by Agreement.*

6. Subject to the Provisions of this and the special Act, it shall be lawful for the Promoters of the Undertaking to agree with the Owners of any Lands by the special Act authorized to be taken, and which shall be required for the Purposes of such Act, and with all Parties having any Estate or Interest in such Lands, or by this or the special Act enabled to sell and convey the same, for the absolute Purchase, for a Consideration in Money, of any such Lands, or such Parts thereof as they shall think proper, and of all Estates and Interests in such Lands of what Kind soever. *Power to purchase Lands by Agreement.*

7. It shall be lawful for all Parties, being seised, possessed of, or entitled to any such Lands, or any Estate or Interest therein, to sell and convey or release the same to the Promoters of the Undertaking, and to enter into all necessary Agreements for that Purpose; and particularly it shall be lawful for all or any of the following Parties, so seised, possessed, or entitled as aforesaid, so to sell, convey, or release; that is to say, all Corporations, Tenants in Tail or for Life, married Women seised in their own Right or entitled to Dower, Guardians, Committees of Lunatics and Idiots, Trustees or Feoffees in Trust for charitable or other Purposes, Executors, and Administrators, and all Parties for the Time being entitled to the Receipt of the Rents and Profits of any such Lands in Possession or subject to any Estate in Dower, or to any Lease for Life, or for Lives and Years, or for Years, or any less Interest; and the Power so to sell and convey or release as aforesaid may lawfully be exercised by all such Parties, other than married Women entitled to Dower, or Lessees for Life, or for Lives and Years, or for Years, or for any less Interest, not only on behalf of themselves, and their respective Heirs, Executors, Administrators, and Successors, but also for and on behalf of every Person entitled in Reversion, Remainder, or Expectancy after them, or in Defeasance of the Estates of such Parties; and as to such married Women, whether they be of full Age or not, as if they were sole and of full Age, and as to such Guardians on behalf of their Wards, and as to such Committees on behalf of the Lunatics and Idiots of whom they are the Committees respectively, and

Parties under Disability enabled to sell and convey.

that to the same Extent as such Wives, Wards, Lunatics, and Idiots respectively could have exercised the same Power under the Authority of this or the special Act if they had respectively been under no Disability; and as to such Trustees, Executors, and Administrators, on behalf of their Cestuique Trusts, whether Infants, Issue unborn, Lunatics, Femer Covert, or other Persons, and that to the same Extent as such Cestuique Trusts respectively could have exercised the same Powers under the Authority of this and the special Act if they had respectively been under no Disability.

Parties
under Dis-
ability to
exercise
other
Powers.

8. The Power herein-after given to enfranchise Copyhold Lands^a as well as every other Power required to be exercised by the Lord of any Manor, pursuant to the Provisions of this or the special Act, or any Act incorporated therewith, and the Power to release Lands from any Rentcharge or Incumbrance and to agree for the Apportionment of any such Rentcharge or Incumbrance^b, shall extend to and may lawfully be exercised by every Party herein-before enabled to sell and convey or release^c Lands to the Promoters of the Undertaking.

Amount of
Compensa-
tion in Case
of Parties
under Dis-
ability to be
ascertained
by Valuation
and paid into
the Bank.

9 The Purchase Money or Compensation to be paid for any Lands to be purchased or taken from any Party under any Disability or Incapacity, and not having Power to sell or convey such Lands except under the Provisions of this or the special Act, and the Compensation to be paid for any permanent Damage or Injury to any such Lands, shall not, except where the same shall have been determined by the Verdict of a Jury^d, or by Arbitration^e, or by the Valuation of a Surveyor appointed by Two Justices under the Provision herein-after contained^f, be less than shall be determined by the Valuation of Two able practical Surveyors, one of whom shall be nominated by the Promoters of the Undertaking, and the other by the other Party, and if such Two Surveyors cannot agree in the Valuation, then by such Third Surveyor as any Two Justices shall upon Application of either Party, after Notice to the other Party, for that Purpose nominate; and each of such Two Surveyors if they agree, or if not then the Surveyor nominated by the said Justices, shall annex to the Valuation a Declaration in Writing, subscribed by them or him, of the Correctness thereof; and all such Purchase Money or Com-

^a § 95 et seq.

^d § 38, 39 et seq.

^b § 116 et seq.

^e § 25 et seq.

^c § 7.

^f § 47, 58, 59 et seq.

compensation shall be deposited in the Bank for the Benefit of the Parties interested, in manner herein-after mentioned.

10. It shall be lawful for any Person seised in Fee of or entitled to dispose of absolutely for his own Benefit any Lands authorized to be purchased for the Purposes of the special Act, to sell and convey such Lands or any Part thereof unto the Promoters of the Undertaking, in consideration of an annual Rentcharge payable by the Promoters of the Undertaking; but, except as aforesaid, the Consideration to be paid for the Purchase of any such Lands, or for any Damage done thereto, shall be in a gross Sum.

Where Vendor absolutely entitled, Lands may be sold on Chief Rents.

11. The yearly Rents reserved by any such Conveyance shall be charged on the Tolls or Rates, if any, payable under the special Act, and shall be otherwise secured in such Manner as shall be agreed between the Parties, and shall be paid by the Promoters of the Undertaking as such Rents become payable; and if at any Time any such Rents be not paid within Thirty Days after they so become payable, and after Demand thereof in Writing, the Person to whom any such Rent shall be payable may either recover the same from the Promoters of the Undertaking, with Costs of Suit, by Action of Debt in any of the Superior Courts, or it shall be lawful for him to levy the same by Distress of the Goods and Chattels of the Promoters of the Undertaking.

Payment of Rents to be charged on Tolls:

Recovery of rents.

12. In case the Promoters of the Undertaking shall be empowered by the special Act to purchase Lands for extraordinary Purposes*, it shall be lawful for all Parties who, under the Provisions herein-before contained, would be enabled to sell and convey Lands, to sell and convey the Lands so authorized to be purchased for extraordinary Purposes.

Power to purchase Lands required for extraordinary purposes, or additional accommodation.

13. It shall be lawful for the Promoters of the Undertaking to sell the Lands which they shall have so acquired for extraordinary Purposes, or any Part thereof, in such Manner, and for such Considerations, and to such Persons, as the Promoters of the Undertaking may think fit, and again to purchase other Lands for the like Purposes, and afterwards sell the same, and so from Time to Time; but the total Quantity of Land to be held at any One Time by the Promoters of the

Authority to sell and repurchase Lands taken for extraordinary purposes.

* See note * in p. 247, and § 3, 28 of 14 & 15 Vic. c. 70, as to Ireland, (XX. 3, 28.)

Undertaking for the Purposes aforesaid shall not exceed the prescribed Quantity.

Restraint on
Purchase for
extraordi-
nary pur-
poses, from
incapacitated
Persons.

14. The Promoters of the Undertaking shall not, by virtue of the Power to purchase Land for extraordinary Purposes, purchase more than the prescribed Quantity from any Party under legal Disability, or who would not be able to sell and convey such Lands except under the Powers of this and the special Act; and if the Promoters of the Undertaking purchase the said Quantity of Land from any Party under such legal Disability, and afterwards sell the whole or any Part of the Land so purchased, it shall not be lawful for any Party, being under legal Disability, to sell to the Promoters of the Undertaking any other Lands in lieu of the Land so sold or disposed of by them.

Municipal
Corporations
not to sell
without the
Approval
of the
Treasury.

15. Nothing in this or the special Act contained shall enable any Municipal Corporation to sell for the Purposes of the special Act, without the Approbation of the Commissioners of Her Majesty's Treasury of the United Kingdom of Great Britain and Ireland, or any Three of them, any Lands which they could not have sold without such Approbation before the passing of the special Act, other than such Lands as the Company are by the Powers of this or the special Act empowered to purchase or take compulsorily.

Purchase of
Lands other-
wise than by
Agreement.

And with respect to the Purchase and taking of Lands otherwise than by Agreement*, be it enacted as follows :

Capital to be
fully sub-
scribed be-
fore compul-
sory Powers
of taking
Land be put
in force.

16. Where the Undertaking is intended to be carried into effect by means of a Capital to be subscribed by the Promoters of the Undertaking, the whole of the Capital or estimated Sum for defraying the Expenses of the Undertaking shall be subscribed under Contract binding the Parties thereto, their Heirs, Executors, and Administrators, for the Payment of the several Sums by them respectively subscribed, before it shall be lawful to put in force any of the Powers of this or the special Act or any Act incorporated therewith, in relation to the compulsory taking of Land for the Purposes of the Undertaking.

A Certificate
of Two Jus-
tices to be

17. A certificate under the Hands of Two Justices, certi-

* See note * in p. 247.

ifying that the whole of the prescribed Sum has been subscribed, shall be sufficient Evidence thereof; and on the Application of the Promoters of the Undertaking, and the Production of such Evidence as such Justices think proper and sufficient, such Justices shall grant such Certificate accordingly.

Evidence that the Capital has been subscribed.

18^a. When the Promoters of the Undertaking shall require to purchase or take any of the Lands which by this or the special Act, or any Act incorporated therewith, they are authorized to purchase or take, they shall give Notice thereof to all the Parties interested in such Lands, or to the Parties enabled by this Act to sell and convey or release the same, or such of the said Parties as shall, after diligent Inquiry, be known to the Promoters of the Undertaking; and by such Notice shall demand from such Parties the Particulars of their Estate and Interest in such Lands, and of the Claims made by them in respect thereof; and every such Notice shall state the Particulars of the Lands so required, and that the Promoters of the Undertaking are willing to treat for the Purchase thereof, and as to the Compensation to be made to all Parties for the Damage that may be sustained by them by reason of the Execution of the Works.

Notice of Intention to take Lands to be given to all parties interested.

Particulars of Notice.

19^a. All Notices required to be served by the Promoters of the Undertaking upon the Parties interested in or entitled to sell any such Lands, shall either be served personally on such Parties, or left at their last usual Place of Abode, if any such can after diligent Inquiry be found; and in case any such Parties shall be absent from the United Kingdom, or cannot be found after diligent Inquiry, shall also be left with the Occupier of such Lands, or, if there be no such Occupier, shall be affixed upon some conspicuous Part of such Lands.

Service of Notices on Owners and Occupiers of Lands.

20^a. If any such Party be a Corporation Aggregate, such Notice shall be left at the principal Office of Business of such Corporation, or, if no such Office can after diligent Inquiry be found, shall be served on some principal Member, if any, of such Corporation; and such Notice shall also be left with the Occupier of such Lands, or, if there be no such Occupier, shall be affixed upon some conspicuous Part of such Lands.

Service of Notice on a Corporation Aggregate.

^a Sections 18-68 of this Act are not applicable so far as regards Railways in Ireland, since the passing of the Railways Act, Ireland, 1851: see § 8 of that act, 14 & 15 *Vis. c. 70* (post, XX. 3.)

If Parties disagree or will not treat, Question to be settled as after mentioned.

Disputes as to Compensation where claim does not exceed £50 to be settled by Two Justices.

Compensation above £50. to be settled by Arbitration, or by a Jury, at Option of Party claiming Compensation.

21^a. If, for Twenty-one Days after the Service of such Notice, any such Party shall fail to state the Particulars of his Claim in respect of any such Land, or to treat with the Promoters of the Undertaking in respect thereof,—or if such Party and the Promoters of the Undertaking shall not agree as to the Amount of the Compensation to be paid by the Promoters of the Undertaking for the Interest in such Lands belonging to such Party, or which he is by this or the special Act enabled to sell, or for any Damage that may be sustained by him by reason of the Execution of the Works,—the Amount of such Compensation shall be settled in the Manner hereinafter provided for settling Cases of disputed Compensation^b.

22^a. If no Agreement be come to between the Promoters of the Undertaking and the Owners of or Parties by this Act enabled to sell and convey or release any Lands taken or required for or injuriously affected by the Execution of the Undertaking, or any Interest in such Lands, as to the Value of such Lands or of any Interest therein, or as to the Compensation to be made in respect thereof, and if in any such Case the Compensation claimed shall not exceed Fifty Pounds, the same shall be settled by Two Justices.

23^a. If the Compensation claimed or offered in any such Case shall exceed Fifty Pounds, and if the Party claiming Compensation desire to have the same settled by Arbitration, and signify such Desire by Notice in Writing to the Promoters of the Undertaking before they have issued their Warrant to the Sheriff to summon a Jury in respect of such Lands, under the Provisions herein-after contained^c, stating in such Notice the Nature of the Interest in respect of which such Party claims Compensation, and the Amount of the Compensation so claimed, the same shall be so settled accordingly: but unless the Party claiming Compensation shall as aforesaid signify his Desire to have the Question of such Compensation settled by Arbitration, or if when the Matter shall have been referred to Arbitration the Arbitrators or their Umpire shall for Three Months have failed to make their or his Award, or if no final Award shall be made, the Question of such Compensation shall be settled by the Verdict of a Jury, as herein-after provided^c.

^a See note ^a in p. 247.

^b § 22, 23 et seq.

^c § 38, 39 et seq.

24^a. It shall be lawful for any Justice, upon the Application of either Party, with respect to any Question of disputed Compensation by this or the special Act, or any Act incorporated therewith, authorized to be settled by Two Justices, to summon the other Party to appear before Two Justices, at a Time and Place to be named in the Summons ; and upon the Appearance of such Parties,—or in the Absence of any of them, upon Proof of due Service of the Summons,—it shall be lawful for such Justices to hear and determine such Question, and for that Purpose to examine such Parties or any of them, and their Witnesses, upon Oath ; and the Costs of every such Inquiry shall be in the Discretion of such Justices, and they shall settle the Amount thereof.

Method of proceeding for settling Disputes as to Compensation by Justices :

Costs.

25^a. When any Question of disputed Compensation by this or the special Act, or any Act incorporated therewith, authorized or required to be settled by Arbitration, shall have arisen, then, unless both Parties shall concur in the Appointment of a single Arbitrator, each Party, on the Request of the other Party, shall nominate and appoint an Arbitrator to whom such Dispute shall be referred ; and every Appointment of an Arbitrator shall be made on the Part of the Promoters of the Undertaking under the Hands of the said Promoters or any Two of them, or of their Secretary or Clerk,—and on the Part of any other Party, under the Hand of such Party,—or if such Party be a Corporation Aggregate, under the Common Seal of such Corporation ; and such Appointment shall be delivered to the Arbitrator, and shall be deemed a Submission to Arbitration^b on the Part of the Party by whom the same shall be made ; and after any such Appointment shall have been made, neither Party shall have Power to revoke the same without the Consent of the other, nor shall the Death of either Party operate as a Revocation ; and if for the Space of Fourteen Days after any such Dispute shall have arisen, and after a Request in Writing, in which shall be stated the Matter so required to be referred to Arbitration, shall have been served by the one Party on the other Party, to appoint an Arbitrator, such last-mentioned Party fail to appoint such Arbitrator, then upon such Failure the Party making the Request, and having himself appointed an Arbitrator, may appoint such

Appointment of Arbitrator when Questions are to be determined by Arbitration.

^a See note ^a in p. 247.

^b And may be made a rule of Court ; § 36 (p. 252.)

Arbitrator to act on behalf of both Parties; and such Arbitrator may proceed to hear and determine the Matters which shall be in Dispute, and in such Case the Award or Determination of such single Arbitrator shall be final.

Veracity of
Arbitrator to
be supplied.

26*. If, before the Matters so referred shall be determined, any Arbitrator appointed by either Party die, or become incapable, the Party by whom such Arbitrator was appointed may nominate and appoint in Writing some other Person to act in his Place; and if, for the Space of Seven Days after Notice in Writing from the other Party for that Purpose, he fail to do so, the remaining or other Arbitrator may proceed *ex parte*; and every Arbitrator so to be substituted as aforesaid shall have the same Powers and Authorities as were vested in the former Arbitrator at the Time of such his Death or Disability as aforesaid.

Appoint-
ment of
Umpire.

27*. Where more than One Arbitrator shall have been appointed, such Arbitrators shall, before they enter upon the Matters referred to them, nominate and appoint, by Writing under their Hands, an Umpire to decide on any such Matter on which they shall differ, or which shall be referred to him under the Provisions of this or the special Act, and if such Umpire shall die, or become incapable to act, they shall forthwith, after such Death or Incapacity, appoint another Umpire in his Place; and the Decision of every such Umpire on the Matters so referred to him shall be final.

Board of
Trade em-
powered to
appoint an
Umpire on
Neglect of
the Arbitra-
tors in case
of Railway
Companies.

28*. If, in either of the Cases aforesaid, the said Arbitrators shall refuse, or shall, for Seven Days after Request of either Party to such Arbitration, neglect to appoint an Umpire, the Board of Trade, in any Case in which a Railway Company shall be One Party to the Arbitration, and Two Justices in any other Case, shall, on the Application of either Party to such Arbitration, appoint an Umpire, and the Decision of such Umpire on the Matters on which the Arbitrators shall differ, or which shall be referred to him under this or the special Act, shall be final.

In case of
Death of
single Arbitrator the
Matter to
begin *de
novo*.

29*. If, when a single Arbitrator shall have been appointed, such Arbitrator shall die or become incapable to act before he shall have made his Award, the Matters referred to him shall be determined by Arbitration under the Provisions of this or

* See note * in p. 247.

the special Act, in the same Manner as if such Arbitrator had not been appointed.

30^a. If, where more than One Arbitrator shall have been appointed, either of the Arbitrators refuse or for Seven Days neglect to act, the other Arbitrator may proceed *ex parte*; and the Decision of such other Arbitrator shall be as effectual as if he had been the single Arbitrator appointed by both Parties.

If either Arbitrator refuse to act, the other to proceed *ex parte*.

31^a. If, where more than One Arbitrator shall have been appointed, and where neither of them shall refuse or neglect to act as aforesaid, such Arbitrators shall fail to make their Award within Twenty-one Days after the Day on which the last of such Arbitrators shall have been appointed, or within such extended Time (if any) as shall have been appointed for that Purpose by both such Arbitrators under their Hands, the Matters referred to them shall be determined by the Umpire to be appointed as aforesaid.

If Arbitrators fail to make their Award within Twenty-one Days, the Matter to go to the Umpire.

32^a. The said Arbitrators or their Umpire may call for the Production of any Documents in the Possession or Power of either Party which they or he may think necessary for determining the Question in dispute; and may examine the Parties or their Witnesses on Oath, and administer the Oaths necessary for that Purpose.

Power of Arbitrators or Umpire to call for Books, &c.

33^a. Before any Arbitrator or Umpire shall enter into the Consideration of any Matters referred to him, he shall in the Presence of a Justice make and subscribe the following Declaration; that is to say,

Declaration to be made by Arbitrator or Umpire;

“I, A.B., do solemnly and sincerely declare, that I will faithfully and honestly, and to the best of my Skill and Ability, hear and determine the Matters referred to me under the Provisions of the Act [*naming the special Act*]. A.B.

“Made and subscribed in the Presence of .”

And such Declaration shall be annexed to the Award when made; and if any Arbitrator or Umpire, having made such Declaration shall wilfully act contrary thereto, he shall be guilty of a Misdemeanor.

under Penalty.

34^a. All the Costs of any such Arbitration and incident thereto, to be settled by the Arbitrators, shall be borne by the Promoters of the Undertaking, unless the Arbitrators shall award the same or a less Sum than shall have been offered by

Costs of Arbitration how to be borne.

^a See note ^a in p. 247.

the Promoters of the Undertaking, in which Case each Party shall bear his own Costs incident to the Arbitration, and the Costs of the Arbitrators shall be borne by the Parties in equal Proportions.

Award to be delivered to Promoters of Undertaking.

35^a. The Arbitrators shall deliver their Award in Writing to the Promoters of the Undertaking; and the said Promoters shall retain the same, and shall forthwith, on Demand, at their own Expense, furnish a Copy thereof to the other Party to the Arbitration, and shall at all Times, on Demand, produce the said Award, and allow the same to be inspected, or examined by such Party or any Person appointed by him for that Purpose.

Submission may be made a Rule of Court.

36^a. The Submission^b to any such Arbitration may be made a Rule of any of the Superior Courts, on the Application of either of the Parties.

Award not voidable for informality

37^a. No Award made with respect to any Question referred to Arbitration under the Provisions of this or the special Act shall be set aside for Irregularity or Error in Matter of Form.

Promoters of the Undertaking to give Notice before summoning a Jury.

38^a. Before the Promoters of the Undertaking shall issue their Warrant for summoning a Jury for settling any Case of disputed Compensation, they shall give not less than Ten Days Notice to the other Party of their Intention to call such Jury to be summoned; and in such Notice, the Promoters of the Undertaking shall state what Sum of Money they are willing to give for the Interest in such Lands sought to be purchased by them from such Party, and for the Damage to be sustained by him by the Execution of the Works.

Warrant for summoning Jury to be addressed to the Sheriff;

39^a. In every Case in which any such Question of disputed Compensation shall be required to be determined by the Verdict of a Jury, the Promoters of the Undertaking shall issue their Warrant to the Sheriff, requiring him to summon a Jury for that Purpose, and such Warrant shall be under the Common Seal of the Promoters of the Undertaking, if they be a Corporation,—or if they be not a Corporation, under the Hand and Seals of such Promoters or any Two of them; and if such Sheriff be interested in the Matter in Dispute, such Application shall be made to some Coroner of the County in which the Lands in question, or some Part thereof, shall be situate; and if all the Coroners of such County be so interested, such Ap-

or to Coroner, &c. in certain cases,

^a See note ^a in p. 247.

^b § 25 (p. 249.)

plication may be made to some Person having filled the Office of Sheriff or Coroner in such County, and who shall be then living there, and who shall not be interested in the Matter in Dispute; and with respect to the Persons last-mentioned, Preference shall be given to one who shall have most recently served either of the said Offices; and every Ex-Sheriff, Coroner, or Ex-Coroner shall have Power, if he think fit, to appoint a Deputy or Assessor.

40^a. Throughout the Enactments contained in this Act relating to the Reference to a Jury, where the Term "Sheriff" is used, the Provisions applicable thereto shall be held to apply to every Coroner or other Person lawfully acting in his Place; and in every Case in which any such Warrant shall have been directed to any other Person than the Sheriff, such Sheriff shall, immediately on receiving Notice of the Delivery of the Warrant, deliver over, on Application for that Purpose, to the Person to whom the same shall have been directed, or to any Person appointed by him to receive the same, the Jurors Book and Special Jurors List belonging to the County where the Lands in question shall be situate.

Provisions applicable to Sheriff to apply to Coroner.

41^a. Upon the Receipt of such Warrant, the Sheriff, shall summon a Jury of Twenty-four indifferent Persons duly qualified to act as Common Jurymen in the Superior Courts, to meet at a convenient Time and Place to be appointed by him for that Purpose, such Time not being less than Fourteen nor more than Twenty-one Days after the Receipt of such Warrant, and such Place not being more than Eight Miles distant from the Lands in question, unless by Consent of the Parties interested; and he shall forthwith give Notice to the Promoters of the Works, of the Time and Place so appointed by him.

Jury of 24 to be summoned.

42^a. Out of the Jurors appearing upon such Summons, a Jury of Twelve Persons shall be drawn by the Sheriff^b, in such Manner as Juries for Trials of Issues joined in the Superior Courts are by Law required to be drawn; and if a sufficient Number of Jurymen do not appear in obedience to such Summons, the Sheriff shall return other indifferent Men, duly qualified as aforesaid, of the Bystanders, or others that can speedily be procured, to make up the Jury to the Number aforesaid; and all Parties concerned may have their lawful

Jury of 12 to be impanelled.

^a See note ^a in p. 247.

^b "Sheriff," or Coroner, &c. in certain cases; § 39, 40.

Challenges against any of the Jurymen, but no such Person shall challenge the Array.

Sheriff to
provide;
Witnesses
to be exam-
ined.

43*. The Sheriff* shall preside on the said Inquiry, and the Party claiming Compensation shall be deemed the Plaintiff, and shall have all such Rights and Privileges as the Plaintiff is entitled to in the Trial of Actions at Law; and, if either Party so request in Writing, the Sheriff* shall summon before him any Person considered necessary to be examined as a Witness touching the Matters in question, and on the Request the Sheriff* shall order the Jury, or any Six or more of them, to view the Place or Matter in controversy, in the Manner as Views may be had in the Trial of Actions in the Superior Courts.

Penalties on
Sheriff and
Jury for
Default.

44*. If the Sheriff* make default in any of the Matters herein-before required to be done by him in relation to any such Trial or Inquiry, he shall forfeit Fifty Pounds for every such Offence; and such Penalty shall be recoverable by the Promoters of the Undertaking by Action in any of the Superior Courts; and if any Person summoned and returned upon a Jury under this or the special Act, whether common or special, do not appear, or if appearing he refuse to make Oath or in any other Manner unlawfully neglect his Duty, he shall, unless he show reasonable Excuse to the Satisfaction of the Sheriff, forfeit a Sum not exceeding Ten Pounds; and every such Penalty payable by a Sheriff* or Jurymen shall be applied in satisfaction of the Costs of the Inquiry, so far as the same will extend, and in addition to the Penalty hereby imposed every such Jurymen shall be subject to the same Regulations, Pains, and Penalties as if such Jury had been returned for the Trial of an Issue joined in any of the Superior Courts.

Penalty on
Witnesses
making
default.

45*. If any Person duly summoned to give Evidence upon any such Inquiry, and to whom a Tender of his reasonable Expenses shall have been made, fail to appear at the Time and Place specified in the Summons, without sufficient Cause, or if any Person, whether summoned or not, who shall appear as a Witness, refuse to be examined on Oath touching the Subject Matter in question, every Person so offending shall forfeit to the Party aggrieved a Sum not exceeding Ten Pounds.

* See note * in p. 247.

* "Sheriff," or Coroner, &c. in certain cases; § 39, 40.

46^a. Not less than Ten Days Notice of the Time and Place of the Inquiry shall be given in Writing by the Promoters of the Undertaking to the other Party. Notice of Inquiry.

47^a. If the Party claiming Compensation shall not appear at the Time appointed for the Inquiry, such Inquiry shall not be further proceeded in ; but the Compensation to be paid shall be such as shall be ascertained by a Surveyor appointed by Two Justices in Manner herein-after provided^b. If Claimant do not appear, Inquiry not to proceed : but Compensation to be ascertained by a Surveyor.

48^a. Before the Jury proceed to inquire of and assess the Compensation or Damage in respect of which their Verdict is to be given, they shall make Oath that they will truly and faithfully inquire of and assess such Compensation or Damage ; and the Sheriff^c shall administer such Oaths, as well as the Oaths of all Persons called upon to give Evidence. Jury to be sworn.

49^a. Where such Inquiry shall relate to the Value of Lands to be purchased, and also to Compensation claimed for Injury done or to be done to the Lands held therewith, the Jury shall deliver their Verdict separately for the Sum of Money to be paid for the Purchase of the Lands required for the Works, or of any Interest therein belonging to the Party with whom the Question of disputed Compensation shall have arisen, or which, under the Provisions herein contained, he is enabled to sell or convey, and for the Sum of Money to be paid by way of Compensation for the Damage, if any, to be sustained by the Owner of the Lands by reason of the severing of the Lands taken from the other Lands of such Owner, or otherwise injuriously affecting such Lands by the Exercise of the Powers of this or the special Act, or any Act incorporated therewith. Sums to be paid for Purchase of Lands, and for Damage by severance, to be assessed separately.

50^a. The Sheriff^c before whom such Inquiry shall be held, shall give Judgment for the Purchase Money or Compensation assessed by such Jury ; and the Verdict and Judgment shall be signed by the Sheriff^c, and being so signed shall be kept by the Clerk of the Peace among the Records of the General or Quarter Sessions of the County in which the Lands or any Part thereof shall be situate, in respect of which such Purchase Money or Compensation shall have been awarded ; and such Verdicts and Judgments shall be deemed Records, and the same or true Copies thereof shall be good Evidence in all Courts and elsewhere, and all Persons may inspect the said Verdict and Judgment to be recorded.

Copies may be had ;

^a See note ^a in p. 247.

^b § 58, 59 *et seq.*

^c "Sheriff," or Coroner, &c. in certain cases ; § 39, 40.

From

Verdicts and Judgments, and may have Copies thereof or Extracts therefrom, on paying for each Inspection thereof One Shilling, and for every One hundred Words copied or extracted therefrom Sixpence; which Copies or Extracts the Clerk of the Peace is hereby required to make out, and to sign and certify the same to be true Copies.

Costs of the Inquiry how to be borne.

51^a. On every such Inquiry before a Jury, where the Verdict of the Jury shall be given for a greater Sum than the Sum previously offered by the Promoters of the Undertaking, all the Costs of such Inquiry shall be borne by the Promoters of the Undertaking; but if the Verdict of the Jury be given for the same or a less Sum than the Sum previously offered by the Promoters of the Undertaking, or if the Owner of the Lands shall have failed to appear at the Time and Place appointed for the Inquiry, having received due Notice thereof, One Half of the Costs of summoning, impannelling, and returning the Jury, and of taking the Inquiry, and recording the Verdict and Judgment thereon, in case such Verdict shall be taken, shall be defrayed by the Owner of the Lands, and the other Half by the Promoters of the Undertaking; and each Party shall bear his own Costs, other than as aforesaid, incident to such Inquiry.

Particulars of the Costs how to be settled in case of Dispute

52^a. The Costs of any such Inquiry shall, in case of Difference, be settled by One of the Masters of the Court at Queen's Bench of *England* or *Ireland*, according as the Lands are situate, on the Application of either Party; and such Costs shall include all reasonable Costs, Charges, and Expenses incurred in summoning, impannelling, and returning the Jury, taking the Inquiry, the Attendance of Witnesses, the Employment of Counsel and Attornies, recording the Verdict and Judgment thereon, and otherwise incident to such Inquiry.

Payment of Costs

53^a. If any such Costs shall be payable by the Promoters of the Undertaking, and if within Seven Days after Demand such Costs be not paid to the Party entitled to receive the same, they shall be recoverable by Distress; and on Application to any Justice he shall issue his Warrant accordingly, and if any such Costs shall be payable by the Owner of the Lands or of any Interest therein, the same may be deducted and retained by the Promoters of the Undertaking, out of any

^a See note * in page 267.

Money awarded by the Jury to such Owner, or determined by the Valuation of a Surveyor, under the Provision herein-after contained^a; and the Payment or Deposit of the Remainder, if any, of such Money, shall be deemed Payment and Satisfaction of the Whole thereof, or if such Costs shall exceed the Amount of the Money so awarded or determined, the Excess shall be recoverable by Distress; and on Application to any Justice he shall issue his Warrant accordingly.

54^b. If either Party desire any such Question of disputed Compensation as aforesaid to be tried before a special Jury, such Question shall be so tried, provided that Notice of such Desire, if coming from the other Party, be given to the Promoters of the Undertaking before they have issued their Warrant^c to the Sheriff; and for that Purpose, the Promoters of the Undertaking shall, by their Warrant to the Sheriff^d, require him to nominate a special Jury for such Trial; and thereupon the Sheriff shall, as soon as conveniently may be after the Receipt by him of such Warrant, summon both the Parties to appear before him, by themselves or their Attornies, at some convenient Time and Place appointed by him, for the Purpose of nominating a special Jury (not being less than Five nor more than Eight Days from the Service of such Summons); and at the Place and Time so appointed, the Sheriff shall proceed to nominate and strike a Special Jury, in the Manner in which such Juries shall be required by the Laws for the Time being in force to be nominated or struck by the proper Officers of the Superior Courts; and the Sheriff shall appoint a Day, not later than the Eighth Day after striking of such Jury, for the Parties or their Agents to appear before him to reduce the Number of such Jury, and thereof shall give Four Days Notice to the Parties; and on the Day so appointed the Sheriff shall proceed to reduce the said special Jury to the Number of Twenty, in the Manner used and accustomed by the proper Officers of the Superior Courts.

55^b. The Special Jury on such Inquiry shall consist of Twelve of the said Twenty who shall first appear on the Names being called over, the Parties having their lawful Challenges against any of the said Jurymen; and if a full Jury

Special Jury to be summoned at the Request of either Party.

Number of Special Jury, 12:

Supply of deficiency in number.

^a § 58 *et seq.*

^b See note ^a in page 247.

^c § 39.

^d "Sheriff," or Coroner, &c. in certain cases; § 29, 40.

do not appear, or if after such Challenges a full Jury do not remain, then, upon the Application of either Party, the Sheriff shall add to the List of such Jury the Names of any other disinterested Persons qualified to act as Special or Common Jurymen who shall not have been previously struck off the aforesaid List, and who may then be attending the Court or can speedily be procured, so as to complete such Jury, all Parties having their lawful Challenges against such Persons; and the Sheriff shall proceed to the Trial and Adjudication of the Matters in question by such Jury, and such Trial shall be attended in all respects with the like Incidents and Consequences, and the like Penalties shall be applicable, as herein-before provided* in the Case of a Trial by Common Jury.

Other Inquiries before same Special Jury by Consent.

56^b. Any other Inquiry than that for the Trial of which such Special Jury may have been struck and reduced as aforesaid, may be tried by such Jury, provided the Parties thereto respectively shall give their Consent to such Trial.

Jurymen required to attend only once a Year.

57^b. No Jurymen shall, without his Consent, be summoned or required to attend any such Proceeding as aforesaid more than once in any Year.

Compensation to absent Parties to be determined by a Surveyor appointed by Two Justices.

58^b. The Purchase Money or Compensation to be paid for any Lands to be purchased or taken by the Promoters of the Undertaking from any Party who, by reason of Absence from the Kingdom, is prevented from treating, or who cannot after diligent Inquiry be found, or who shall not appear at the Time appointed for the Inquiry before the Jury, as herein-before provided for, after due Notice thereof, and the Compensation to be paid for any permanent Injury to such Lands, shall be such as shall be determined by the Valuation of such able practical Surveyor as Two Justices shall nominate for that Purpose as herein after mentioned.

Nomination of Surveyor by Justices.

59^b. Upon Application by the Promoters of the Undertaking to Two Justices, and upon such Proof as shall be satisfactory to them that any such Party is, by reason of Absence from the Kingdom, prevented from treating, or cannot after diligent Inquiry be found, or that any such Party failed to appear on such Inquiry before a Jury as aforesaid, after due Notice to him for that Purpose, such Justices shall by Writing under their Hands nominate an able practical Surveyor for

* § 43-45, &c.

* See note * in page 247.

determining such Compensation as aforesaid ; and such Surveyor shall determine the same accordingly, and shall annex to his Valuation a Declaration in Writing subscribed by him of the Correctness thereof.

60^a. Before such Surveyor shall enter upon the Duty of making such Valuation as aforesaid he shall, in the Presence of such Justices or One of them, make and subscribe the Declaration following at the Foot of such Nomination ; that is to say,

“ I, *A. B.*, do solemnly and sincerely declare, That I will faithfully, impartially, and honestly, according to the best of my Skill and Ability, execute the Duty of making the Valuation hereby referred to me. *A. B.*”

“ Made and subscribed in the Presence of .”

And if any Surveyor shall corruptly make such Declaration, or having made such Declaration shall wilfully act contrary thereto, he shall be guilty of a Misdemeanor. under Penalty.

61^a. The said Nomination and Declaration shall be annexed to the Valuation to be made by such Surveyor, and shall be preserved together therewith by the Promoters of the Undertaking ; and they shall at all Times produce the said Valuation and other Documents, on Demand, to the Owner of the Lands comprised in such Valuation, and to all other Parties interested therein. Valuation, &c. to be produced to the Owner of the Lands, on Demand.

62^a. All the Expenses of and incident to every such Valuation shall be borne by the Promoters of the Undertaking. Expenses to be borne by Promoters.

63^a. In estimating the Purchase Money or Compensation to be paid by the Promoters of the Undertaking, in any of the Cases aforesaid, regard shall be had by the Justices, Arbitrators, or Surveyors, as the Case may be, not only to the Value of the Land to be purchased or taken by the Promoters of the Undertaking, but also to the Damage, if any, to be sustained by the Owner of the Lands by reason of the severing of the Lands taken from the other Lands of such Owner, or otherwise injuriously affecting such other Lands by the Exercise of the Powers of this or the special Act, or any Act incorporated therewith. Purchase Money and Compensation, how to be estimated.

64^a. When the Compensation payable in respect of any Lands, or any Interest therein, shall have been ascertained by the Valuation of a Surveyor, and deposited in the Bank under When Compensation to absent Party has been determined by

^a See note ^a in page 247.

a. *Survivor of the Party may have the same submitted to Arbitration.*

the Provisions herein contained, by reason that the Owner or Party entitled to convey such Lands, or such Interest therein as aforesaid, could not be found, or was absent from the Kingdom, if such Owner or Party shall be dissatisfied with such Valuation, it shall be lawful for him, before he shall have applied to the Court of Chancery for Payment or Investment of the Monies so deposited under the Provisions herein contained, by Notice in Writing to the Promoters of the Undertaking, to require the Question of such Compensation to be submitted to Arbitration; and thereupon the same shall be so submitted accordingly, in the same Manner as in other Cases of disputed Compensation herein-before^a authorized or required to be submitted to Arbitration.

Question to be submitted to the Arbitrators.

65^b. The Question to be submitted to the Arbitrators in the Case last aforesaid shall be, whether the said Sum so deposited as aforesaid by the Promoters of the Undertaking was a sufficient Sum, or whether any and what further Sum ought to be paid or deposited by them.

If further Sum awarded, Promoters to pay or deposit same within 14 Days.

66^b. If the Arbitrators shall award that a further Sum ought to be paid or deposited by the Promoters of the Undertaking, they shall pay or deposit, as the Case may require, such further Sum within Fourteen Days after the making of such Award, or in Default thereof the same may be enforced by Attachment, or recovered, with Costs, by Action or Suit in any of the Superior Courts.

Costs of the Arbitration.

67^b. If the Arbitrators shall determine that the Sum so deposited was sufficient, the Costs of and incident to such Arbitration, to be determined by the Arbitrators, shall be in the Discretion of the Arbitrators; but if the Arbitrators shall determine that a further Sum ought to be paid or deposited by the Promoters of the Undertaking, all the Costs of and incident to the Arbitration shall be borne by the Promoters of the Undertaking.

Compensation, if claim exceeds £50, to be settled by Arbitration, or Jury, at Option of Claimant.

68^b. If any Party shall be entitled to any Compensation in respect of any Lands, or of any Interest therein, which shall have been taken for or injuriously affected by the Execution of the Works, and for which the Promoters of the Undertaking shall not have made Satisfaction, under the Provisions of this or the special Act or any Act incorporated therewith, and if

^a § 25 *et seq.*

^b See note ^a in page 247.

the Compensation claimed in such Case shall exceed the Sum of Fifty Pounds, such Party may have the same settled either by Arbitration or by the Verdict of a Jury, as he shall think fit; and if such Party desire to have the same settled by Arbitration, it shall be lawful for him to give Notice in Writing to the Promoters of the Undertaking of such his Desire, stating in such Notice the Nature of the Interest in such Lands in respect of which he claims Compensation, and the Amount of the Compensation so claimed therein; and unless the Promoters of the Undertaking be willing to pay the Amount of Compensation so claimed, and shall enter into a written Agreement for that Purpose within Twenty-one Days after the Receipt of any such Notice from any Party so entitled, the same shall be settled by Arbitration in the Manner herein provided^a; or if the Party so entitled as aforesaid desire to have such Question of Compensation settled by Jury^b, it shall be lawful for him to give Notice in Writing of such his Desire to the Promoters of the Undertaking, stating such Particulars as aforesaid; and unless the Promoters of the Undertaking be willing to pay the Amount of Compensation so claimed, and enter into a written Agreement for that Purpose, they shall within Twenty-one Days after the Receipt of such Notice, issue their Warrant to the Sheriff^c to summon a Jury for settling the same in the Manner herein provided, and in default thereof they shall be liable to pay to the Party so entitled as aforesaid the Amount of Compensation so claimed; and the same may be recovered by him, with Costs, by Action in any of the Superior Courts.

And with respect to the Purchase Money or Compensation coming to Parties having limited Interests, or prevented from treating, or not making Title, be it enacted as follows : *Application of Compensation.*

69. If the Purchase Money or Compensation which shall be payable in respect of any Lands or any Interest therein, purchased or taken by the Promoters of the Undertaking from any Corporation, Tenant for Life or in Tail, married Women seised in her own Right or entitled to Dower, Guardian, Committee of Lunatic or Idiot, Trustee, Executor, or Administra- *Purchase Money or Compensation to Parties under Disability amounting to £200 to be deposited in the Bank ;*

^a § 25 et seq.

^b § 39 et seq.

^c "Sheriff," or Coroner, &c. in certain cases; § 39, 40.

tor, or Person having a partial or qualified Interest only in such Lands, and not entitled to sell or convey the same except under the Provisions of this or the special Act, or the Compensation to be paid for any permanent Damage to any such Lands, amount to or exceed the Sum of Two Hundred Pounds, the same shall be paid into the Bank, in the Name and with the Privy of the Accountant-General of the Court of Chancery in *England* if the same relate to Lands in *England* or *Wales*, or the Accountant-General of the Court of Exchequer in *Ireland* if the same relate to Lands in *Ireland*, to be placed to the Account there of such Accountant General ^{Per part} the Promoters of the Undertaking (describing them by their proper Name), in the Matter of the special Act (citing it), pursuant to the Method prescribed by any Act for the Time being in force for regulating Monies paid into the said Courts; and such Monies shall remain so deposited until the same be applied to some One or more of the following Purposes; that is to say,

to what
account.

Application
of Monies
deposited.

In the Purchase or Redemption of the Land Tax, or the Discharge of any Debt or Incumbrance affecting the land in respect of which such Money shall have been paid, or affecting other Lands settled therewith to the same or the like Uses, Trusts, or Purposes; or

In the Purchase of other Lands, to be conveyed, limited, and settled upon the like Uses, Trusts, and Purposes, and in the same Manner, as the Lands in respect of which such Money shall have been paid stood settled; or

If such Money shall be paid in respect of any Buildings taken under the Authority of this or the special Act, or injured by the Proximity of the Works, in removing or replacing such Buildings, or substituting others in their Stead, in such Manner as the Court of Chancery shall direct; or

In Payment to any Party becoming absolutely entitled to such Money.

Order for
Application
of Monies,
and Invest-
ment
meanwhile,
under an
Order of
Court:

70. Such Money may be so applied as aforesaid, upon an Order of the Court of Chancery in *England* or the Court of Exchequer in *Ireland*, made on the Petition of the Party who would have been entitled to the Rents and Profits of the Lands in respect of which such Money shall have been deposited; and until the Money can be so applied, it may, upon the like

Order, be invested by the said Accountant-General in the Purchase of *Three per Centum* Consolidated or *Three per Centum* Reduced Bank Annuities, or in Government or Real Securities, and the Interest, Dividends, and annual Proceeds thereof paid to the Party who would for the Time being have been entitled to the Rents and Profits of the Lands.

Application
of annual
Proceeds.

71. If the Purchase Money or Compensation shall not amount to the Sum of Two Hundred Pounds and shall exceed the Sum of Twenty Pounds, the same shall either be paid into the Bank, and applied in the Manner herein-before directed with respect to Sums amounting to or exceeding Two Hundred Pounds^a, or the same may lawfully be paid to Two Trustees, to be nominated by the Parties entitled to the Rents or Profits of the Lands in respect whereof the same shall be payable, such Nomination to be signified by Writing under the Hands of the Party so entitled ; and in case of the Coverture, Infancy, Lunacy, or other Incapacity of the Parties entitled to such Monies, such Nomination may lawfully be made by their respective Husbands, Guardians, Committees, or Trustees ; but such last-mentioned Application of the Monies shall not be made, unless the Promoters of the Undertaking approve thereof and of the Trustees named for the Purpose ; and the Money so paid to such Trustees, and the Produce arising therefrom, shall be by such Trustees applied in the Manner herein-before directed^a with respect to Money paid into the Bank, but it shall not be necessary to obtain any Order of the Court for that Purpose.

Sums from
£20 to £200
to be de-
posited as
above, or
paid to
Trustees.

may be
applied with-
out an Order
of Court.

72. If such Money shall not exceed the Sum of Twenty Pounds, the same shall be paid to the Parties entitled to the Rents and Profits of the Lands in respect whereof the same shall be payable, for their own Use and Benefit ; or in case of the Coverture, Infancy, Idiocy, Lunacy, or other Incapacity of any such Parties, then such Money shall be paid for their Use to the respective Husbands, Guardians, Committees, or Trustees of such Persons.

Sums not
exceeding
£20 to be
paid to
Parties.

73. All sums of Money exceeding Twenty Pounds, which may be payable by the Promoters of the Undertaking in respect of the taking, using, or interfering with any Lands, under a Contract or Agreement with any Person who shall not

All Sums
payable
under Con-
tract with
Persons not
absolutely

entitled, to
be paid into
Bank

be entitled to dispose of such Lands or of the Interest therein, contracted to be sold by him absolutely for his own Benefit, shall be paid into the Bank or to Trustees in Manner aforesaid: and it shall not be lawful for any contracting Party not entitled as aforesaid to retain to his own Use any Portion of the Sum so agreed or contracted to be paid for or in respect of the taking, using, or interfering with any such Lands, or in lieu of Bridges, Tunnels, or other Accommodation Works, or for assenting to or not opposing the passing of the Bill authorizing the taking of such Lands; but all such Monies shall be deemed to have been contracted to be paid for and on account of the several Parties interested in such Lands, as well in Possession as in Remainder, Reversion, or Expectancy: Provided always, that it shall be in the Discretion of the Court of Chancery in *England* or the Court of Exchequer in *Ireland*, or the said Trustees, as the Case may be, to allot to any Tenant for Life or for any other partial or qualified Estate, for his own Use, a Portion of the Sum so paid into the Bank or to such Trustees as aforesaid, as Compensation for any Injury, Inconvenience, or Annoyance which he may be considered to sustain, independently of the actual Value of the Lands to be taken, and of the Damage occasioned to the Lands held therewith, by reason of the taking of such Lands and the making of the Works.

Court of
Chancery
may direct
Application
of Money in
respect of
Leases or
Reversions
as they may
think just.

74. Where any Purchase Money or Compensation paid into the Bank under the Provisions of this or the special Act, shall have been paid in respect of any Lease for a Life or Lives or Years, or for a Life or Lives and Years, or any Estate in Lands less than the whole Fee Simple thereof, or of any Reversion dependent on any such Lease or Estate, it shall be lawful for the Court of Chancery in *England* or the Court of Exchequer in *Ireland*, on the Petition of any Party interested in such Money, to order that the same shall be laid out, invested, accumulated, and paid, in such Manner as the said Court may consider will give to the Parties interested in such Money the same Benefit therefrom as they might lawfully have had from the Lease, Estate, or Reversion in respect of which such Money shall have been paid, or as near thereto as may be.

Upon De-
posit being
made the
Owners of

75. Upon Deposit in the Bank, in manner herein-before provided, of the Purchase Money or Compensation agreed or awarded to be paid in respect of any Lands purchased or taken

by the Promoters of the Undertaking under the Provisions of this or the special Act, or any Act incorporated therewith, the Owner of such Lands, including in such Term all Parties by this Act enabled to sell or convey Lands, shall, when required so to do by the Promoters of the Undertaking, duly convey such Lands to the Promoters of the Undertaking, or as they shall direct ; and in default thereof, or if he fail to adduce a good Title to such Lands to their Satisfaction, it shall be lawful for the Promoters of the Undertaking, if they think fit, to execute a Deed Poll under their Common Seal if they be a Corporation, or if they be not a Corporation under the Hands and Seals of the Promoters or any Two of them, containing a Description of the Lands in respect of which such Default shall be made, and reciting the Purchase or taking thereof by the Promoters of the Undertaking, and the Names of the Parties from whom the same were purchased or taken, and the Deposit made in respect thereof, and declaring the Fact of such Default having been made ; and such Deed Poll shall be stamped with the Stamp Duty which would have been payable upon a Conveyance to the Promoters of the Undertaking of the Lands described therein ; and thereupon all the Estate and Interest in such Lands of or capable of being sold and conveyed by the Party between whom and the Promoters of the Undertaking such Agreement shall have been come to, or as between whom and the Promoters of the Undertaking such Purchase Money or Compensation shall have been determined by a Jury, or by Arbitrators, or by a Surveyor appointed by Two Justices, as herein provided, and shall have been deposited as aforesaid, shall vest absolutely in the Promoters of the Undertaking ; and as against such Parties, and all Parties on behalf of whom they are herein-before enabled to sell and convey, the Promoters of the Undertaking shall be entitled to immediate Possession of such Lands.

the Lands
to execute
conveyance ;

or in default
the Lands to
vest in the
Promoters of
the Under-
taking, upon
Deed Poll
being exe-
cuted by
them.

Stamp Duty.

76. If the Owner of any such Lands purchased or taken by the Promoters of the Undertaking, or of any Interest therein, on Tender of the Purchase Money or Compensation either agreed or awarded to be paid in respect thereof, refuse to accept the same, or neglect or fail to make out a Title to such Lands, or to the Interest therein claimed by him, to the Satisfaction of the Promoters of the Undertaking,—or if he refuse to convey or release such Lands as directed by the Promoters of

Where Par-
ties refuse to
convey, or
do not show
Title, or
cannot be
found, the
Purchase
Money to be
deposited.

the Undertaking,—or if any such Owner be absent from the Kingdom, or cannot after diligent Inquiry be found, or fail to appear on the Inquiry before a Jury, as herein provided for,—it shall be lawful for the Promoters of the Undertaking to deposit the Purchase Money or Compensation payable in respect of such Lands, or any Interest therein, in the Bank, in the Name and with the Privity of the Accountant-General of the Court of Chancery in *England* or the Court of Exchequer in *Ireland*, to be placed, except in the Cases herein otherwise provided for, to his Account there, to the Credit of the Parties interested in such Lands (describing them, so far as the Promoters of the Undertaking can do), subject to the Control and Disposition of the said Court.

Upon Deposit being made, a Receipt to be given, and the Lands to vest upon a Deed Poll being executed.

Stamp Duty.

77. Upon any such Deposit of Money as last aforesaid being made, the Cashier of the Bank shall give to the Promoters of the Undertaking, or to the Party paying in such Money by their Direction, a Receipt for such Money, specifying therein for what and for whose Use (described as aforesaid) the same shall have been received, and in respect of what Purchase the same shall have been paid in ; and it shall be lawful for the Promoters of the Undertaking, if they think fit, to execute a Deed Poll, under their Common Seal if they be a Corporation, or if they be not a Corporation under the Hands and Seals of the said Promoters or any Two of them, containing a Description of the Lands in respect whereof such Deposit shall have been made, and declaring the Circumstances under which and the Names of the Parties to whose Credit such Deposit shall have been made ; and such Deed Poll shall be stamped with the Stamp Duty which would have been payable upon a Conveyance to the Promoters of the Undertaking of the Lands described therein ; and thereupon all the Estate and Interest in such Lands of the Parties for whose Use and in respect whereof such Purchase Money or Compensation shall have been deposited shall vest absolutely in the Promoters of the Undertaking, and as against such Parties they shall be entitled to immediate Possession of such Lands.

Application of Monies so deposited.

78. Upon the Application by Petition of any Party making claim to the Money so deposited as last aforesaid, or any Part thereof, or to the Lands in respect whereof the same shall

have been so deposited, or any Part of such Lands, or any Interest in the same, the said Court of Chancery in *England* or the Court of Exchequer in *Ireland* may, in a summary Way, as to such Court shall seem fit, order such Money to be laid out or invested in the Public Funds, or may order Distribution thereof, or Payment of the Dividends thereof, according to the respective Estates, Titles, or Interests of the Parties making claim to such Money or Lands, or any Part thereof, and may make such other Order in the Premises as to such Court shall seem fit.

79. If any Question arise respecting the Title to the Lands in respect whereof such Monies shall have been so paid or deposited as aforesaid, the Parties respectively in possession of such Lands, as being the Owners thereof, or in receipt of the Rents of such Lands, as being entitled thereto at the Time of such Lands being purchased or taken, shall be deemed to have been lawfully entitled to such Lands, until the contrary be shown to the Satisfaction of the Court; and unless the contrary be shown as aforesaid, the Parties so in possession, and all Parties claiming under them, or consistently with their Possession, shall be deemed entitled to the Money so deposited, and to the Dividends or Interest of the Annuities or Securities purchased therewith; and the same shall be paid and applied accordingly.

80. In all Cases of Monies deposited in the Bank under the Provisions of this or the special Act, or any Act incorporated therewith, except where such Monies shall have been so deposited by reason of the wilful Refusal of any Party entitled thereto to receive the same, or to convey or release the Lands in respect whereof the same shall be payable, or by reason of the wilful Neglect of any Party to make out a good Title to the Land required, it shall be lawful for the Court of Chancery in *England*, or the Court of Exchequer in *Ireland*, to order the Costs of the following Matters, including therein all reasonable Charges and Expenses incident thereto, to be paid by the Promoters of the Undertaking; that is to say, the Costs of the Purchase or Taking of the Lands, or which shall have been incurred in consequence thereof, other than such Costs as are herein otherwise provided for, and the Costs of the Investment of such Monies in Government or Real Securities, and of the Reinvestment thereof in the Purchase of

Party in possession to be deemed the Owner.

Costs in Cases of Money deposited.

other Lands, and also the Costs of obtaining the proper Order for any of the Purposes aforesaid, and of the Orders for the Payment of the Dividends and Interest of the Securities upon which such Monies shall be invested, and for the Payment out of Court of the Principal of such Monies or of the Securities whereon the same shall be invested, and of all Proceedings relating thereto, except such as are occasioned by Litigation between adverse Claimants: Provided always, that the Court of One Application only for Reinvestment in Land shall be allowed, unless it shall appear to the Court of Chancery in *England*, or to the Court of Exchequer in *Ireland*, that it is for the Benefit of the Parties interested in the said Monies that the same should be invested in the Purchase of Land in different Sums and at different Times; in which Case it shall be lawful for the Court, if it think fit, to order the Costs of any such Investments to be paid by the Promoters of the Undertaking.

Conveyances.

And with respect to the Conveyances of Lands, be it enacted as follows:

Forms of
Conveyances.

81. Conveyances of Lands to be purchased under the Provisions of this or the special Act, or any Act incorporated therewith may be according to the Forms in the Schedules (A.) and (B.) respectively to this Act annexed*, or as near thereto as the Circumstances of the Case will admit, or by Deed in any other Form which the Promoters of the Undertaking may think fit; and all Conveyances made according to the Form in the said Schedules, or as near thereto as the Circumstances of the Case will admit, shall be effectual to vest the Lands thereby conveyed in the Promoters of the Undertaking, and shall operate to merge all Terms of Years attendant by express Declaration or by Construction of Law on the Estate or Interest so thereby conveyed, and to bar and to destroy all such Estates Tail, and all other Estates, Rights, Titles, Remainders, Reversions, Limitations, Trusts, and Interests whatsoever, and in the Lands comprised in such Conveyances which shall have been purchased or compensated for by the Consideration therein mentioned; but although Terms of Years be thereby merged, they shall in Equity afford the same Protection as if

* Forms of Conveyance, Schedule A, p. 299; Conveyance on Chief Rent, Schedule B, p. 300.

they had been kept on foot and assigned to a Trustee for the Promoters of the Undertaking, to attend the Reversion and Inheritance.

82. The Costs of all such Conveyances shall be borne by the Promoters of the Undertaking; and such Costs shall include all Charges and Expenses incurred, on the Part as well of the Seller as of the Purchaser, of all Conveyances and Assurances of any such Lands, and of any outstanding Terms or Interests therein, and of deducing, evidencing, and verifying the Title to such Lands, Terms, or Interests, and of making out and furnishing such Abstracts and attested Copies as the Promoters of the Undertaking may require, and all other reasonable Expenses incident to the Investigation, Deduction, and Verification of such Title.

Costs of Conveyances.

83. If the Promoters of the Undertaking and the Party entitled to any such Costs shall not agree as to the Amount thereof, such Costs shall be taxed by One of the Taxing Masters of the Court of Chancery, or by a Master in Chancery in Ireland, upon an Order of the same Court, to be obtained upon Petition in a summary Way by either of the Parties; and the Promoters of the Undertaking shall pay what the said Master shall certify to be due in respect of such Costs, to the Party entitled thereto; or in default thereof the same may be recovered in the same Way as any other Costs payable under an Order of the said Court, or the same may be recovered by Distress in the Manner herein-before provided in other Cases of Costs; and the Expense of taxing such Costs shall be borne by the Promoters of the Undertaking, unless upon such Taxation One Sixth Part of the Amount of such Costs shall be disallowed, in which Case the Costs of such Taxation shall be borne by the Party whose Costs shall be so taxed; and the Amount thereof shall be ascertained by the said Master and deducted by him accordingly in his Certificate of such Taxation.

Taxation of Costs of Conveyances.

And with respect to the Entry upon Lands by the Promoters of the Undertaking, be it enacted as follows :

Entry on Lands.

84. The Promoters of the Undertaking shall not, except by Consent of the Owners and Occupiers, enter upon any Lands which shall be required to be purchased or permanently used for the Purposes and under the Powers of this or the special

Payment of Price to be made before Entry, except for survey, &c. ;

Notice of
entry for
purpose of
survey, &c.

Promoters to
be allowed
to enter on
Lands before
Purchase, or
making De-
posit by way
of Security,
and giving
Bond.

Act, until they shall either have paid to every Party having any Interest in such Lands, or deposited in the Bank, in the Manner herein mentioned, the Purchase Money or Compensation agreed or awarded to be paid to such Parties respectively for their respective Interest therein: Provided always, that for the Purpose merely of surveying and taking Levels of such Lands, and of probing or boring to ascertain the Nature of the Soil, and of setting out the Line of the Works, it shall be lawful for the Promoters of the Undertaking, after giving not less than Three nor more than Fourteen Days Notice to the Owners or Occupiers thereof, to enter upon such Lands without previous Consent, making Compensation for any Damage thereby occasioned to the Owners or Occupiers thereof.

85. Provided also, That if the Promoters of the Undertaking shall be desirous of entering upon and using any such Lands, before an Agreement shall have been come to, or an Award made, or Verdict given, for the Purchase Money or Compensation to be paid by them in respect of such Lands, it shall be lawful for the Promoters of the Undertaking to deposit in the Bank by way of Security, as herein-after mentioned, either the Amount of Purchase Money or Compensation claimed by any Party interested in or entitled to sell and convey such Lands, and who shall not consent to such Entry, or such a Sum as shall, by a Surveyor appointed by Two Justices in the Manner herein-before provided in the Case of Parties who cannot be found*, be determined to be the Value of such Lands or of the Interest therein which such Party is entitled to or enabled to sell and convey, and also to give to such Party a Bond, under the Common Seal of the Promoters, if they be a Corporation, or if they be not a Corporation, under the Hands and Seals of the said Promoters or any Two of them, with Two sufficient Sureties, to be approved of by Two Justices, in case the Parties differ, in a penal Sum equal to the Sum so to be deposited, conditioned for Payment to such Party, or for Deposit in the Bank for the Benefit of the Parties interested in such Lands, as the Case may require, under the Provisions herein contained, of all such Purchase Money or Compensation as may, in Manner herein-before provided, be determined to be payable by the Promoters of the Undertak-

ing in respect of the Land so entered upon, together with Interest thereon at the Rate of Five Pounds *per Centum per Annum* from the Time of entering on such Lands until such Purchase Money or Compensation shall be paid to such Party, or deposited in the Bank for the Benefit of the Parties interested in such Lands, under the Provisions herein contained ; and upon such Deposit by way of Security being made as aforesaid, and such Bond being delivered or tendered to such non-consenting Party as aforesaid, it shall be lawful for the Promoters of the Undertaking to enter upon and use such Lands, without having first paid or deposited the Purchase Money or Compensation in other Cases required^a to be paid or deposited by them before entering upon any Lands to be taken by them under the Provisions of this or the special Act.

86. The Money so to be deposited as last aforesaid shall be paid into the Bank in the Name and with the Privity of the Accountant General of the Court of Chancery in *England*, or the Court of Exchequer in *Ireland*, to be placed to his Account there, to the Credit of the Parties interested in or entitled to sell and convey the Lands so to be entered upon, and who shall not have consented to such Entry, subject to the Control and Disposition of the said Court ; and upon such Deposit being made, the Cashier of the Bank shall give to the Promoters of the Undertaking, or to the Party paying in such Money by their Direction, a Receipt for such Money, specifying therein for what Purpose and to whose Credit the same shall have been paid in.

Upon Deposit being made, Cashier to give Receipt.

87. The Money so deposited as last aforesaid shall remain in the Bank, by way of Security to the Parties whose Lands shall so have been entered upon, for the Performance of the Conditions of the Bond to be given by the Promoters of the Undertaking, as herein-before mentioned ; and the same may, on the Application by Petition of the Promoters of the Undertaking, be ordered to be invested in Bank Annuities or Government Securities, and accumulated ; and upon the Condition of such Bond being fully performed, it shall be lawful for the Court of Chancery in *England* or the Court of Exchequer in *Ireland*, upon a like Application, to order the Money so deposited, or the Funds in which the same shall have been invested, together with the Accumulation thereof, to be repaid

Deposit to remain as a Security, and to be applied under Direction of Court.

or transferred to the Promoters of the Undertaking, or if such Condition shall not be fully performed it shall be lawful for the said Court to order the same to be applied in such Manner as it shall think fit for the Benefit of the Parties whose Security the same shall so have been deposited.

Company may pay Deposit Money into Bank by way of Security, during Time that the Office of the Accountant General is closed.

88. If at any Time the Company be unable, by reason of the closing of the Office of the Accountant General of the Court of Chancery in *England* or the Court of Exchequer in *Ireland*, to obtain his Authority in respect of the Payment of any Sum of Money so authorized to be deposited in the Bank by way of Security as aforesaid, it shall be lawful for the Company to pay into the Bank, to the Credit of such Party or Matter as the Case may require (subject nevertheless to being dealt with as herein-after provided, and not otherwise) such Sum of Money as the Promoters of the Undertaking shall, by some Writing signed by their Secretary or Solicitor for the Time being, addressed to the Governor and Company of the Bank in that Behalf, request; and upon any such Payment being made, the Cashier of the Bank shall give a Certificate thereof; and in every such Case, within Ten days after the re-opening of the said Accountant General's Office, the Solicitor for the Promoters of the Undertaking shall then bespeak the Direction for the Payment of such Sum into the Name of the Accountant General, and upon Production of such Direction at the Bank of *England**, the Money so previously paid in shall be placed to the Credit of the said Accountant General accordingly, and the Receipt for the said Payment be given to the Party making the same in the usual Way, for the Purpose of being filed at the Report Office.

Penalty on Company entering upon Lands without Consent, before Payment of Purchase Money, £10.

89. If the Promoters of the Undertaking or any of their Contractors shall, except as aforesaid, wilfully enter upon and take possession of any Lands which shall be required to be purchased or permanently used for the Purposes of the special Act, without such Consent as aforesaid, or without having made such Payment for the Benefit of the Parties interested in the Lands, or such Deposit by way of Security as aforesaid, the Promoters of the Undertaking shall forfeit to the Party in possession of such Lands the Sum of Ten Pounds, over and above the Amount of any Damage done to such Lands by

* "Of *England*," i.e. or of *Ireland*.* Where the expression "the Bank" alone is used, it applies to either § 3, (p. 242.)

reason of such Entry and taking Possession as aforesaid, such Penalty and Damage respectively to be recovered before Two Justices; and if the Promoters of the Undertaking or their Contractors shall, after Conviction in such Penalty as aforesaid, continue in unlawful Possession of any such Lands, the Promoters of the Undertaking shall be liable to forfeit the Sum of Twenty-five Pounds for every Day they or their Contractors shall so remain in possession as aforesaid, such Penalty to be recoverable by the Party in possession of such Lands, with Costs, by Action^a in any of the Superior Courts: Provided always, that nothing herein contained shall be held to subject the Promoters of the Undertaking to the Payment of any such Penalties as aforesaid, if they shall bond *pro se* and without Collusion have paid the Compensation agreed or awarded to be paid in respect of the said Lands to any Person whom the Promoters of the Undertaking may have reasonably believed to be entitled thereto, or shall have deposited the same in the Bank for the Benefit of the Parties interested in the Lands, or made such Deposit by way of Security in respect thereof as herein-before mentioned^b, although such Person may not have been legally entitled thereto.

and £25 a day after Conviction.

90. On the Trial of any Action for any such Penalty as aforesaid, the Decision of the Justices under the Provision herein-before contained^c shall not be held conclusive as to the Right of Entry on any such Lands by the Promoters of the Undertaking.

Decision of Justices not conclusive as to Title of Company.

91. If in any Case in which, according to the Provisions of this or the special Act, or any Act incorporated therewith, the Promoters of the Undertaking are authorized to enter upon and take possession of any Lands required for the Purposes of the Undertaking, the Owner or Occupier of any such Lands or any other Person refuse to give up the Possession thereof, or hinder the Promoters of the Undertaking from entering upon or taking possession of the same, it shall be lawful for the Promoters of the Undertaking to issue their Warrant to the Sheriff to deliver Possession of the same to the Person appointed in such Warrant to receive the same; and upon the Receipt of such Warrant the Sheriff shall deliver Possession of any such Lands accordingly; and the Costs Costs.

Proceedings in case of Refusal to deliver Possession of Lands.

^a See § 90: the first penalty of £10 under the present section is recoverable before Justices. ^b § 85. ^c § 89; and note ^d thereon.

accruing by reason of the issuing and Execution of such Warrant, to be settled by the Sheriff, shall be paid by the Person refusing to give Possession; and the Amount of such Costs shall be deducted and retained by the Promoters of the Undertaking from the Compensation, if any, then payable by them to such Party, or if no such Compensation be payable to such Party, or if the same be less than the Amount of such Costs, then such Costs, or the Excess thereof beyond such Compensation, if not paid on Demand, shall be levied by Distress; and upon Application to any Justice for that Purpose he shall issue his Warrant accordingly.

*Portions of
buildings.
Parties not
to be re-
quired to sell
Part of a
House, &c.*

92. *And be it enacted, That* no Party shall at any Time be required to sell or convey to the Promoters of the Undertaking a Part only of any House or Building or Manufactory, if such Party be willing and able to sell and convey the Whole thereof.

*Intersected
Lands.*

And with respect to small Portions of Intersected Land, be it enacted as follows:

*Owners of
intersected
Lands may
insist on
Sale, where
quantity less
than 1 acre
is severed.*

93. If any Lands, not being situate in a Town or built upon, shall be so cut through and divided by the Works as to leave, either on both Sides or one Side thereof, a less Quantity of Land than Half a Statute Acre, and if the Owner of such small Parcel of Land require the Promoters of the Undertaking to purchase the same along with the other Land required for the Purposes of the special Act, the Promoters of the Undertaking shall purchase the same accordingly, unless the Owner thereof have other Land adjoining to that so left, into which the same can be thrown, so as to be conveniently occupied therewith; and if such Owner have any other Land so adjoining, the Promoters of the Undertaking shall, if so required by the Owner, at their own Expense, throw the Piece of Land so left into such adjoining Land, by removing the Fences and levelling the Sites thereof, and by soiling the same in a sufficient and workmanlike Manner.

*or on its
being pro-
perly con-
nected with
adjoining
lands.*

*Company
may insist on
Purchase
where Ex-
pense of
Bridges, &c.,
would exceed
the Value:*

94. If any such Land shall be so cut through and divided as to leave on either Side of the Works a Piece of Land of less Extent than Half a Statute Acre, or of less Value than the Expense of making a Bridge, Culvert, or such other Communication between the Land so divided as the Promoters of the Undertaking are, under the Provisions of this or the

special Act, or any Act incorporated therewith, compellable to make, and if the Owner of such Lands have not other Lands adjoining such Piece of Land, and require the Promoters of the Undertaking to make such Communication, then the Promoters of the Undertaking may require such Owner to sell to them such Piece of Land; and any Dispute as to the Value of such Piece of Land, or as to what would be the Expense of making such Communication, shall be ascertained as herein provided for Cases of disputed Compensation^a; and on the Occasion of ascertaining the Value of the Land required to be taken for the Purposes of the Works, the Jury or the Arbitrators, as the Case may be, shall, if required by either Party, ascertain by their Verdict or Award the Value of any such covered Piece of Land, and also what would be the Expense of making such Communication.

Disputes as to Value, &c., to be settled by Arbitration or Jury, &c.

And with respect to Copyhold Lands, be it enacted as follows: *Copyholds.*

95. Every Conveyance to the Promoters of the Undertaking of any Lands which shall be of Copyhold or Customary Tenure, or of the Nature thereof, shall be entered on the Rolls of the Manor of which the same shall be held or parcel; and on Payment to the Steward of such Manor of such Fees as would be due to him on the Surrender of the same Lands to the Use of a Purchaser thereof, he shall make such Enrolment; and every such Conveyance, when so enrolled, shall have the like Effect, in respect of such Copyhold or Customary Lands, as if the same had been of Freehold Tenure; nevertheless, until such Lands shall have been enfranchised by virtue of the Powers herein-after contained^b, they shall continue subject to the same Fines, Rents, Heriots, and Services as were theretofore payable and of Right accustomed.

Conveyances of Copyhold Lands to be enrolled.

Fees.

96. Within Three Months after the Enrolment of the Conveyance of any such Copyhold or Customary Lands, or within One Month after the Promoters of the Undertaking shall enter upon and make use of the same for the Purposes of the Works, whichever shall first happen, or if more than One Parcel of such Lands holden of the same Manor shall have been taken by them, then, within One Month after the last of such Parcels shall have been so taken or entered on by them, the Pro-

Copyhold Lands to be enfranchised.

^a § 21, 22 et seq.

^b § 26 et seq.

Compensation to Lord of Manor.

motors of the Undertaking shall procure the Whole of the Lands holden of such Manor so taken by them to be enfranchised; and for that Purpose shall apply to the Lord of the Manor whereof such Lands are holden, to enfranchise the same, and shall pay to him such Compensation in respect thereof as shall be agreed upon between them and him; and if the Parties fail to agree respecting the Amount of the Compensation to be paid for such Enfranchisement, the same shall be determined as in other Cases of disputed Compensation^a; and in estimating such Compensation, the Loss in respect of the Fines, Heriots, and other Services payable on Death, Descent, or Alienation, or any other Matters which would be lost by the vesting of such Copyhold or Customary Lands in the Promoters of the Undertaking, or by the Enfranchisement of the same, shall be allowed for.

Lord of the Manor to enfranchise on Payment of Compensation.

97. Upon Payment or Tender of the Compensation so agreed upon or determined, or on Deposit thereof in the Bank in any of the Cases herein-before in that Behalf provided, the Lord of the Manor whereof such Copyhold or Customary Lands shall be holden, shall enfranchise such Lands; and the Lands so enfranchised shall for ever thereafter be held in Free and Common Soccage; and in default of such Enfranchisement by the Lord of the Manor, or if he fail to adduce a good Title thereto to the Satisfaction of the Promoters of the Undertaking, it shall be lawful for them, if they think fit, to execute a Deed Poll, duly stamped, in the Manner herein-before provided in the Case of the Purchase of Lands by them^b; and thereupon the Lands in respect of the Enfranchisement whereof such Compensation shall have been deposited as aforesaid shall be deemed to be enfranchised, and shall be for ever thereafter held in Free and Common Soccage.

Deed Poll.

Apportionment of Copyhold Rents.

98. If any such Copyhold or Customary Lands be subject to any customary or other Rent, and Part only of the Land subject to any such Rent be required to be taken for the Purposes of the special Act, the Apportionment of such Rent may be settled by Agreement between the Owner of the Lands and the Lord of the Manor on the one Part, and the Promoters of the Undertaking on the other Part, and if such Apportionment be not so settled by Agreement, then the same

^a § 21, 22 *et seq.*

^b § 75, 77.

shall be settled by Two Justices; and the Enfranchisement of any Copyhold or Customary Lands taken by virtue of this or the special Act, or the Apportionment of such Rents, shall not affect in other respects any Custom by or under which any such Copyhold or Customary Lands not taken for such Purposes shall be held; and if any of the Lands so required be released from any Portion of the Rents to which they were subject jointly with any other Lands, such last-mentioned Lands shall be charged with the Remainder only of such Rents; and with reference to any such apportioned Rents, the Lord of the Manor shall have all the same Rights and Remedies over the Lands to which such apportioned Rent shall have been assigned or attributed as he had previously over the whole of the Lands subject to such Rents for the Whole of such Rents.

Reservation of rights of Lord of Manor in respect of apportioned rents.

And with respect to any such Lands, being Common or Waste Lands, be it enacted as follows :

Common Lands.

99. The Compensation in respect of the Right in the Soil of any Lands subject to any Rights of Common, shall be paid to the Lord of the Manor, in case he shall be entitled to the same, or to such Party, other than the Commoners, as shall be entitled to such Right in the Soil; and the Compensation in respect of all other commonable and other Rights in or over such Lands, including therein any commonable or other Rights to which the Lord of the Manor may be entitled, other than his Right in the Soil of such Lands, shall be determined and paid and applied in Manner herein-after provided with respect to Common Lands the Right in the Soil of which shall belong to the Commoners^a; and upon Payment or Deposit in the Bank of the Compensation so determined all such commonable and other Rights shall cease and be extinguished.

Compensation for Common Lands, where held of a Manor, &c. how to be paid.

100. Upon Payment or Tender to the Lord of the Manor, or such other Party as aforesaid, of the Compensation which shall have been agreed upon or determined in respect of the Right in the Soil of any such Lands, or on Deposit thereof in the Bank in any of the Cases herein-before in that Behalf provided, such Lord of the Manor, or such other Party as afore-

Lord of the Manor, &c. to convey to the Promoters of the Undertaking, on receiving Compensation.

tion for his
Interest.

Deed Poll.

Compensa-
tion for
Common
Lands not
held of a
Manor how
to be ascer-
tained.

A Meeting
of the Par-
ties inte-
rested to be
convened.

said, shall convey such Lands to the Promoters of the Undertaking ; and such Conveyance shall have the Effect of vesting such Lands in the Promoters of the Undertaking, in like Manner as if such Lord of the Manor, or such other Party as aforesaid, had been seised in Fee Simple of such Lands at the Time of executing such Conveyance ; and in default of such Conveyance, it shall be lawful for the Promoters of the Undertaking, if they think fit, to execute a Deed Poll, duly stamped, in the Manner herein-before provided in the Case of the Purchase of Lands by them^a ; and thereupon the Lands in respect whereof such last-mentioned Compensation shall have been deposited as aforesaid, shall vest absolutely in the Promoters of the Undertaking ; and they shall be entitled to immediate Possession thereof, subject nevertheless to the commonable and other Rights theretofore affecting the same, until such Rights shall have been extinguished by Payment or Deposit of the Compensation for the same in manner herein-after provided.

101. The Compensation to be paid with respect to any such Lands, being Common Lands, or in the Nature thereof, the Right to the Soil of which shall belong to the Commoners, as well as the Compensation to be paid for the commonable and other Rights in or over Common Lands the Right in the Soil whereof shall not belong to the Commoners, other than the Compensation to the Lord of the Manor or other Party entitled to the Soil thereof, in respect of his Right in the Soil thereof, shall be determined by Agreement between the Promoters of the Undertaking and a Committee of the Parties entitled to commonable or other Rights in such Lands, to be appointed as next herein-after mentioned.

102. It shall be lawful for the Promoters of the Undertaking to convene a Meeting of the Parties entitled to commonable or other Rights over or in such Lands, to be held at some convenient Place in the Neighbourhood of the Lands, for the Purpose of their appointing a Committee to treat with the Promoters of the Undertaking for the Compensation to be paid for the Extinction of such commonable or other Rights ; and every such Meeting shall be called by public Advertisement

be inserted once at least in Two consecutive Weeks in some newspaper circulating in the County or in the respective counties and in the Neighbourhood in which such Lands shall be situate, the last of such Insertions being not more than fourteen nor less than Seven Days prior to any such Meeting; and Notice of such Meeting shall also, not less than Seven days previous to the holding thereof, be affixed upon the Door of the Parish Church where such Meeting is intended to be held, or if there be no such Church some other Place in the neighbourhood to which Notices are usually affixed; and if such Lands be parcel or holden of a Manor, a like Notice shall be given to the Lord of such Manor.

103. It shall be lawful for the Meeting so called to appoint a Committee, not exceeding Five in Number, of the Parties entitled to any such Rights; and at such Meeting, the Decision of the Majority of the Persons entitled to commonable rights present, shall bind the Minority and all absent Parties.

Meeting to
appoint a
Committee.

104. It shall be lawful for the Committee so chosen to enter into an Agreement with the Promoters of the Undertaking for the Compensation to be paid for the Extinction of such commonable and other Rights and all Matters relating thereto, or and on behalf of themselves and all other Parties interested herein; and all such Parties shall be bound by such Agreement; and it shall be lawful for such Committee to receive the Compensation so agreed to be paid; and the Receipt of such Committee, or of any Three of them, for such Compensation, shall be an effectual Discharge for the same; and such Compensation, when received, shall be apportioned by the Committee among the several Persons interested therein, according to their respective Interest; but the Promoters of the Undertaking shall not be bound to see to the Apportionment or to the Application of such Compensation, nor shall they be liable for the Misapplication or Nonapplication thereof.

Committee
to agree with
Company;

Agreement
binding;

and receive
Compensation.

Apportion-
ment of
Compensation.

105. If upon such Committee being appointed, they shall fail to agree with the Promoters of the Undertaking as to the Amount of the Compensation to be paid as aforesaid, the same shall be determined as in other Cases of disputed Compensation.^a

Disputes to
be settled as
in other
Cases.

^a § 21, 22 et seq.

tion for his Interest.

Deed Poll.

Compensation for Common Lands not held of a Manor how to be ascertained.

A Meeting of the Parties interested to be convened.

said, shall convey such Lands to the Promoter taking; and such Conveyance shall have the Effect of such Lands in the Promoters of the Undertaking in the Manner as if such Lord of the Manor, or such Person as aforesaid, had been seised in Fee Simple of such Lands at the Time of executing such Conveyance; and in executing such Conveyance, it shall be lawful for the Promoters, if they think fit, to execute a Deed Poll in the Manner herein-before provided in the case of Lands by them; and thereupon the Lands whereof such last-mentioned Compensation has been deposited as aforesaid, shall vest absolutely in the Promoters of the Undertaking; and they shall be entitled to the Possession thereof, subject nevertheless to the other Rights theretofore affecting the same; and all Rights shall have been extinguished by the execution of the Compensation for the same in the Manner herein-before provided.

101. The Compensation to be paid for the Lands, being Common Lands, or for the Right to the Soil of which shall belong to the Promoters, as well as the Compensation to be paid for the other Rights in or over Common Lands, whereof shall not belong to the Promoters, shall be determined by Agreement between the Promoters and the Lord of the Manor, or the Right to the Soil thereof, in respect of which the Undertaking and a Compensation shall be made for the other Rights next herein-after mentioned.

102. It shall be lawful for the Promoters to convene a Meeting of the Parties interested to be convened, for the purpose of ascertaining the Compensation to be paid for the other Rights next herein-after mentioned.

tion for his
Interest.

Deed Poll.

Compensa-
tion for
Common
Lands not
held of a
Manor how
to be ascer-
tained.

A Meeting
of the Par-
ties inter-
ested to be
convened.

said, shall convey such Lands to the Promoters of the Undertaking; and such Conveyance shall have the Effect of vesting such Lands in the Promoters of the Undertaking, in like Manner as if such Lord of the Manor, or such other Party as aforesaid, had been seised in Fee Simple of such Lands at the Time of executing such Conveyance; and in default of such Conveyance, it shall be lawful for the Promoters of the Undertaking, if they think fit, to execute a Deed Poll, duly stamped, in the Manner herein-before provided in the Case of the Purchase of Lands by them*; and thereupon the Lands in respect whereof such last-mentioned Compensation shall have been deposited as aforesaid, shall vest absolutely in the Promoters of the Undertaking; and they shall be entitled to immediate Possession thereof, subject nevertheless to the commonable and other Rights theretofore affecting the same, until such Rights shall have been extinguished by Payment or Deposit of the Compensation for the same in manner herein-after provided.

101. The Compensation to be paid with respect to any such Lands, being Common Lands, or in the Nature thereof, the Right to the Soil of which shall belong to the Commoners, as well as the Compensation to be paid for the commonable and other Rights in or over Common Lands the Right in the Soil whereof shall not belong to the Commoners, other than the Compensation to the Lord of the Manor or other Party entitled to the Soil thereof, in respect of his Right in the Soil thereof, shall be determined by Agreement between the Promoters of the Undertaking and a Committee of the Parties entitled to commonable or other Rights in such Lands, to be appointed as next herein-after mentioned.

102. It shall be lawful for the Promoters of the Undertaking to convene a Meeting of the Parties entitled to commonable or other Rights over or in such Lands, to be held at some convenient Place in the Neighbourhood of the Lands, for the Purpose of their appointing a Committee to treat with the Promoters of the Undertaking for the Compensation to be paid for the Extinction of such commonable or other Rights; and every such Meeting shall be called by public Advertisement

to be inserted once at least in Two consecutive Weeks in some Newspaper circulating in the County or in the respective Counties and in the Neighbourhood in which such Lands shall be situate, the last of such Insertions being not more than Fourteen nor less than Seven Days prior to any such Meeting ; and Notice of such Meeting shall also, not less than Seven Days previous to the holding thereof, be affixed upon the Door of the Parish Church where such Meeting is intended to be held, or if there be no such Church some other Place in the Neighbourhood to which Notices are usually affixed ; and if such Lands be parcel or holden of a Manor, a like Notice shall be given to the Lord of such Manor.

103. It shall be lawful for the Meeting so called to appoint a Committee, not exceeding Five in Number, of the Parties entitled to any such Rights ; and at such Meeting, the Decision of the Majority of the Persons entitled to commonable Rights present, shall bind the Minority and all absent Parties.

Meeting to
appoint a
Committee.

104. It shall be lawful for the Committee so chosen to enter into an Agreement with the Promoters of the Undertaking for the Compensation to be paid for the Extinction of such commonable and other Rights and all Matters relating thereto, for and on behalf of themselves and all other Parties interested therein ; and all such Parties shall be bound by such Agreement ; and it shall be lawful for such Committee to receive the Compensation so agreed to be paid ; and the Receipt of such Committee, or of any Three of them, for such Compensation, shall be an effectual Discharge for the same ; and such Compensation, when received, shall be apportioned by the Committee among the several Persons interested therein, according to their respective Interest ; but the Promoters of the Undertaking shall not be bound to see to the Apportionment or to the Application of such Compensation, nor shall they be liable for the Misapplication or Nonapplication thereof.

Committee
to agree with
Company ;

Agreement
binding ;

and receive
Compensation.

Apportion-
ment of
Compensation.

105. If upon such Committee being appointed, they shall fail to agree with the Promoters of the Undertaking as to the Amount of the Compensation to be paid as aforesaid, the same shall be determined as in other Cases of disputed Compensation.*

Disputes to
be settled as
in other
Cases.

the Estate and Interest of such Mortgagee, and of all Persons in trust for him, or for whom he may be a Trustee, in such Lands, shall vest in the Promoters of the Undertaking, and they shall be entitled to immediate Possession thereof in case such Mortgagee were himself entitled to such Possession.

Mode of settling Compensation, when Mortgage exceeds the Value of the Lands.

110. If any such mortgaged Lands shall be of less Value than the Principal, Interest, and Costs secured thereon, the Value of such Land, or the Compensation to be made by the Promoters of the Undertaking in respect thereof, shall be settled by Agreement between the Mortgagee of such Lands and the Party entitled to the Equity of Redemption thereof on the one Part, and the Promoters of the Undertaking on the other Part; and if the Parties aforesaid fail to agree respecting the Amount of such Value or Compensation, the same shall be determined as in other Cases of disputed Compensation^a; and the Amount of such Value or Compensation, being so agreed upon or determined, shall be paid by the Promoters of the Undertaking to the Mortgagee in satisfaction of his Mortgage Debt, so far as the same will extend; and upon Payment or Tender thereof, the Mortgagee shall convey or release all his Interest in such mortgaged Lands to the Promoters of the Undertaking, or as they shall direct.

Money may be deposited in Bank, in case of refusal on Tender, or failure to show title.

111. If, upon such Payment or Tender as aforesaid being made, any such Mortgagee fail so to convey his Interest in such Mortgage, or to adduce a good Title thereto to the Satisfaction of the Promoters of the Undertaking, it shall be lawful for them to deposit the Amount of such Value or Compensation in the Bank, in the Manner provided by this Act in like Cases, and every such Payment or Deposit shall be accepted by the Mortgagee in satisfaction of his Mortgage Debt, so far as the same will extend, and shall be a full Discharge of such Mortgaged Lands from all Money due thereon; and it shall be lawful for the Promoters of the Undertaking, if they think fit, to execute a Deed Poll, duly stamped, in the Manner herein-before provided in the Case of the Purchase of Lands by them^b; and thereupon such Lands, as to all such Estate and Interest as were then vested in the Mortgagee, or any Person in trust for him, shall become absolutely vested in the Promoters of the Undertaking, and they shall be en-

Deed Poll.

^a § 21, 22 *et seq.*

^b § 75, 77.

ntly with any other Lands not required for the Purposes the special Act; and in order thereto, the Promoters of the Undertaking may pay or tender to such Mortgagee the Principal and Interest due on such Mortgage, together with his Costs and Charges, if any, and also Six Months additional Interest; and thereupon such Mortgagee shall immediately convey his Interest in the Lands comprised in such Mortgage to the Promoters of the Undertaking, or as they shall direct; the Promoters of the Undertaking may give Notice in writing to such Mortgagee that they will pay off the Principal and Interest due on such Mortgage at the End of Six Months, computed from the Day of giving such Notice; and they shall have given any such Notice, or if the Party entitled to the Equity of Redemption of any such Lands shall have given Six Months Notice of his Intention to redeem the same, then at the Expiration of either of such Notices, or at any intermediate Period, upon Payment or Tender by the Promoters of the Undertaking to the Mortgagee, of the Principal Money due on such Mortgage, and the Interest which should become due at the End of Six Months from the Time giving either of such Notices, together with his Costs and expenses, if any, such Mortgagee shall convey or release his Interest in the Lands comprised in such Mortgage to the Promoters of the Undertaking, or as they shall direct.

Tender of
Principal
and Interest
to Mortgagee:

or Notice to
Mortgagee.

109. If, in either of the Cases aforesaid, upon such Payment or Tender, any Mortgagee shall fail to convey or release his Interest in such Mortgage as directed by the Promoters of the Undertaking, or if he fail to adduce a good Title thereto to their Satisfaction, then it shall be lawful for the Promoters of the Undertaking to deposit in the Bank in the manner provided by this Act in like Cases, the Principal and Interest, together with the Costs, if any, due on such Mortgage, and also if such Payment be made before the Expiration of Six Months Notice as aforesaid, such further Interest as should at that Time become due; and it shall be lawful for them, if they think fit, to execute a Deed Poll, duly stamped, in the Manner herein-before provided in the Case of the release of Lands by them; and thereupon as well as upon any Conveyance by the Mortgagee, if any such be made, all

Deposit of
Mortgage
Money, &c.,
on Refusal
to accept, or
failing to
show Title.

Deed Poll to
be executed
by Company
in such case:
and lands to
vest in them.

the Estate and Interest of such Mortgagee, and of all Persons in trust for him, or for whom he may be a Trustee, in such Lands, shall vest in the Promoters of the Undertaking, and they shall be entitled to immediate Possession thereof in case such Mortgagee were himself entitled to such Possession.

Mode of settling Compensation, when Mortgage exceeds the Value of the Lands.

110. If any such mortgaged Lands shall be of less Value than the Principal, Interest, and Costs secured thereon, the Value of such Land, or the Compensation to be made by the Promoters of the Undertaking in respect thereof, shall be settled by Agreement between the Mortgagee of such Lands and the Party entitled to the Equity of Redemption thereof on the one Part, and the Promoters of the Undertaking on the other Part; and if the Parties aforesaid fail to agree respecting the Amount of such Value or Compensation, the same shall be determined as in other Cases of disputed Compensation^a; and the Amount of such Value or Compensation, being so agreed upon or determined, shall be paid by the Promoters of the Undertaking to the Mortgagee in satisfaction of his Mortgage Debt, so far as the same will extend; and upon Payment or Tender thereof, the Mortgagee shall convey or release all his Interest in such mortgaged Lands to the Promoters of the Undertaking, or as they shall direct.

Money may be deposited in Bank, in case of refusal on Tender, or failure to show title.

111. If, upon such Payment or Tender as aforesaid being made, any such Mortgagee fail so to convey his Interest in such Mortgage, or to adduce a good Title thereto to the Satisfaction of the Promoters of the Undertaking, it shall be lawful for them to deposit the Amount of such Value or Compensation in the Bank, in the Manner provided by this Act in like Cases, and every such Payment or Deposit shall be accepted by the Mortgagee in satisfaction of his Mortgage Debt, so far as the same will extend, and shall be a full Discharge of such Mortgaged Lands from all Money due thereon; and it shall be lawful for the Promoters of the Undertaking, if they think fit, to execute a Deed Poll, duly stamped, in the Manner herein-before provided in the Case of the Purchase of Lands by them^b; and thereupon such Lands, as to all such Estate and Interest as were then vested in the Mortgagee, or any Person in trust for him, shall become absolutely vested in the Promoters of the Undertaking, and they shall be en-

Deed Poll.

^a § 21, 22 *et seq.*

^b § 75, 77.

titled to immediate Possession thereof in case such Mortgagee were himself entitled to such Possession; nevertheless all Rights and Remedies possessed by the Mortgagee against the Mortgagor, by virtue of any Bond or Covenant or other Obligation, other than the Right to such Lands, shall remain in force in respect of so much of the Mortgage Debt as shall not have been satisfied by such Payment or Deposit.

112. If a Part only of any such mortgaged Lands be required for the Purposes of the special Act, and if the Part so required be of less Value than the Principal Money, Interest, and Costs secured on such Lands, and the Mortgagee shall not consider the remaining Part of such Lands a sufficient Security for the Money charged thereon, or be not willing to release the Part so required, then the Value of such Part, and also the Compensation (if any) to be paid in respect of the Severance thereof or otherwise, shall be settled by Agreement between the Mortgagee and the Party entitled to the Equity of Redemption of such Land on the one Part, and the Promoters of the Undertaking on the other, and if the Parties aforesaid fail to agree respecting the Amount of such Value or Compensation the same shall be determined as in other Cases of disputed Compensation^a; and the Amount of such Value or Compensation, being so agreed upon or determined, shall be paid by the Promoters of the Undertaking to such Mortgagee, in satisfaction of his Mortgage Debt, so far as the same will extend; and thereupon such Mortgagee shall convey or release to them, or as they shall direct, all his Interest in such mortgaged Lands the Value whereof shall have been so paid; and a Memorandum of what shall have been so paid shall be endorsed on the Deed creating such Mortgage, and shall be signed by the Mortgagee; and a Copy of such Memorandum shall at the same Time (if required) be furnished by the Promoters of the Undertaking, at their Expense, to the Party entitled to the Equity of Redemption of the Lands comprised in such Mortgage Deed.

113. If, upon Payment or Tender to any such Mortgagee of the Amount of the Value or Compensation so agreed upon or determined, such Mortgagee shall fail to convey or release to the Promoters of the Undertaking, or as they shall direct,

Sum to be paid where Part only of mortgaged Lands taken.

Deposit of Money when refused on Tender.

^a § 21, 22 of sup.

Deed Poll.

his Interest in the Lands in respect of which such Compensation shall so have been paid or tendered, or if he shall fail to adduce a good Title thereto to the Satisfaction of the Promoters of the Undertaking, it shall be lawful for the Promoters of the Undertaking to pay the Amount of such Value or Compensation into the Bank, in the Manner provided by this Act in the Case of Monies required to be deposited in such Bank, and such Payment or Deposit shall be accepted by such Mortgagee in satisfaction of his Mortgage Debt, so far as the same will extend, and shall be a full Discharge of the Portion of the mortgaged Lands so required, from all Money due thereon; and it shall be lawful for the Promoters of the Undertaking, if they think fit, to execute a Deed Poll, duly stamped in the Manner herein-before provided in the Case of the Purchase of Lands by them^a; and thereupon such Lands shall become absolutely vested in the Promoters of the Undertaking, as to all such Estate and Interest as were then vested in the Mortgagee, or any Person in trust for him, and in case such Mortgagee were himself entitled to such Possession they shall be entitled to immediate Possession thereof; nevertheless, every such Mortgagee shall have the same Powers and Remedies for recovering or compelling Payment of the Mortgage Money or the Residue thereof (as the Case may be), and the Interest thereof respectively, upon and out of the Residue of such mortgaged Lands, or the Portion thereof not required for the Purposes of the special Act, as he would otherwise have had or been entitled to for recovering or compelling Payment thereof upon or out of the whole of the Lands originally comprised in such Mortgage.

Compensation to be made in certain Cases, if Mortgage paid off before the stipulated Time.

114. Provided always, That in any of the Cases herein-before provided with respect to Lands subject to Mortgage, if in the Mortgage Deed a Time shall have been limited for Payment of the Principal Money thereby secured, and under the Provisions herein-before contained the Mortgagee shall have been required to accept Payment of his Mortgage Money^b, or of Part thereof, at a Time earlier than the Time so limited, the Promoters of the Undertaking shall pay to such Mortgagee, in addition to the Sum which shall have been so paid off, all such Costs and Expenses as shall be incurred by such

^a § 75, 77.^b § 108-9.

Mortgagee in respect of or which shall be incidental to the Reinvestment of the Sum so paid off; such Costs, in Case of Difference, to be taxed, and Payment thereof enforced, in the Manner herein provided with respect to the Costs of Conveyances^a; and if the Rate of Interest secured by such Mortgage be higher than at the Time of the same being so paid off can reasonably be expected to be obtained on reinvesting the same, regard being had to the then current Rate of Interest, such Mortgagee shall be entitled to receive from the Promoters of the Undertaking, in addition to the Principal and Interest herein-before provided for, Compensation in respect of the Loss to be sustained by him by reason of his Mortgage Money being so prematurely paid off, the Amount of such Compensation to be ascertained in case of Difference, as in other Cases of disputed Compensation^b; and until Payment or Tender of such Compensation as aforesaid, the Promoters of the Undertaking shall not be entitled, as against such Mortgagee, to Possession of the mortgaged Lands under the Provision herein-before contained.

And with respect to Lands charged with any Rent Service, Rent-charge, or chief or other Rent, or other Payment or Incumbrance not herein-before provided for, be it enacted as follows:

115. If any Difference shall arise between the Promoters of the Undertaking and the Party entitled to any such Charge upon any Lands required to be taken for the Purposes of the special Act, respecting the Consideration to be paid for the Release of such Lands therefrom, or from the Portion thereof affecting the Lands required for the Purposes of the special Act, the same shall be determined as in other Cases of disputed Compensation^b.

116. If Part only of the Lands charged with any such Rent Service, Rentcharge, chief or other Rent, Payment, or Incumbrance, be required to be taken for the Purposes of the special Act, the Apportionment of any such Charge may be settled by Agreement between the Party entitled to such Charge and

^a § 83.

^b § 21, 22 *et seq.*

the Owner of the Lands on the one Part, and the Promoters of the Undertaking on the other Part; and if such Apportionment be not so settled by Agreement the same shall be settled by Two Justices; but if the remaining Part of the Lands so jointly subject be a sufficient Security for such Charge, then, with Consent of the Owner of the Lands so jointly subject, it shall be lawful for the Party entitled to such Charge to release therefrom the Lands required, on condition or in consideration of such other Lands remaining exclusively subject to the Whole thereof.

Deposit
in case of
Refusal to
release.

Deed Poll.

117. Upon Payment or Tender of the Compensation so agreed upon or determined, to the Party entitled to any such Charge as aforesaid, such Party shall execute to the Promoters of the Undertaking a Release of such Charge; and if he fails so to do, or if he fail to adduce good Title to such Charge to the Satisfaction of the Promoters of the Undertaking, it shall be lawful for them to deposit the Amount of such Compensation in the Bank in the Manner herein-before provided in like Cases, and also, if they think fit, to execute a Deed Poll, duly stamped, in the Manner herein-before provided in the Case of the Purchase of Lands by them^a; and thereupon the Rent Service, Rentcharge, chief or other Rent, Payment, or Incumbrance, or the Portion thereof in respect whereof such Compensation shall so have been paid, shall cease and be extinguished.

Charge to
continue on
Lands not
taken.

118. If any such Lands be so released from any such Charge or Incumbrance, or Portion thereof, to which they were subject jointly with other Lands, such last-mentioned Lands shall alone be charged with the Whole of such Charge, or with the Remainder thereof, as the Case may be; and the Party entitled to the Charge shall have all the same Rights and Remedies over such last-mentioned Lands for the whole or for the Remainder of the Charge, as the Case may be, as he had previously over the whole of the Lands subject to such Charge; and if upon any such Charge or Portion of Charge being so released, the Deed or Instrument creating or transferring such Charge be tendered to the Promoters of the Undertaking for the Purpose, they or Two of them shall subscribe, or if they be a Corporation shall affix their Common Seal to, a Memo-

randum of such Release endorsed on such Deed or Instrument, declaring what Part of the Lands originally subject to such Charge shall have been purchased by virtue of the special Act; and if the Lands be released from Part of such Charge, what Proportion of such Charge shall have been released, and how much thereof continues payable; or if the Lands so required shall have been released from the whole of such Charge, then that the remaining Lands are thenceforward to remain exclusively charged therewith; and such Memorandum shall be made and executed at the Expense of the Promoters of the Undertaking, and shall be Evidence in all Courts and elsewhere of the Facts therein stated, but not so as to exclude any other Evidence of the same Facts.

And with respect to Lands subject to Leases, be it enacted as Leases follows :

119. If any Lands shall be comprised in a Lease for a Term of Years unexpired, Part only of which Lands shall be required for the Purposes of the special Act, the Rent payable in respect of the Lands comprised in such Lease shall be apportioned between the Lands so required and the Residue of such Lands; and such Apportionment may be settled by Agreement between the Lessor and Lessee of such Lands on the one Part, and the Promoters of the Undertaking on the other Part; and if such Apportionment be not so settled by Agreement between the Parties, such Apportionment shall be settled by Two Justices; and after such Apportionment, the Lessee of such Lands shall, as to all future accruing Rent, be liable only to so much of the Rent as shall be so apportioned in respect of the Lands not required for the Purposes of the special Act; and as to the Lands not so required, and as against the Lessee, the Lessor shall have all the same Rights and Remedies for the Recovery of such Portion of Rent as, previously to such Apportionment, he had for the Recovery of the whole Rent reserved by such Lease; and all the Covenants, Conditions, and Agreements of such Lease, except as to the Amount of Rent to be paid, shall remain in force with regard to that Part of the Land which shall not be required for the Purposes of the special Act, in the same Manner as they would have done

Apportionment of Rent, where Part only of Lands under Lease is taken.

in case such Part only of the Land had been included in the Lease.

Tenants to be compensated for severance, &c.

120. Every such Lessee as last aforesaid, shall be entitled to receive from the Promoters of the Undertaking, Compensation for the Damage done to him in his Tenancy by reason of the Severance of the Lands required from those not required, or otherwise by reason of the Execution of the Works*.

Compensation to Tenants at Will, &c.

121. If any such Lands shall be in the Possession of any Person having no greater Interest therein than as Tenant for a Year or from Year to Year, and if such Person be required to give up Possession of any Lands so occupied by him before the Expiration of his Term or Interest therein, he shall be entitled to Compensation for the Value of his unexpired Term or Interest in such Lands, and for any just Allowance which ought to be made to him by an in-coming Tenant, and for any Loss or Injury he may sustain; or, if a Part only of such Lands be required, Compensation for the Damage done to him in his Tenancy by severing the Lands held by him or otherwise injuriously affecting the same; and the Amount of such Compensation shall be determined by Two Justices, in case the Parties differ about the same; and upon Payment or Tender of the Amount of such Compensation, all such Persons shall respectively deliver up to the Promoters of the Undertaking, or to the Person appointed by them to take possession thereof, any such Lands in their Possession required for the Purposes of the special Act.

Where greater Interest claimed than from Year to Year, Lease to be produced.

122. If any Party, having a greater Interest than as Tenant at Will, claim Compensation in respect of any unexpired Term or Interest under any Lease or Grant of any such Lands, the Promoters of the Undertaking may require such Party to produce the Lease or Grant in respect of which such Claim shall be made, or the best Evidence thereof in his Power; and if, after Demand made in Writing by the Promoters of the Undertaking, such Lease or Grant, or such best Evidence thereof, be not produced within Twenty-one Days, the Party so claiming Compensation shall be considered as a Tenant holding only from Year to Year, and be entitled to Compensation accordingly.

* See § 68 *et seq.* of Railways Clauses Consolidation Act, 1845, as to Works to be executed in case of severance, &c. (VII. 68 *et seq.*)

123. *And be it enacted, That* the Powers of the Promoters of the Undertaking for the compulsory Purchase or taking of Lands for the Purposes of the special Act shall not be exercised after the Expiration of the prescribed Period, and if no Period be prescribed not after the Expiration of Three Years from the passing of the special Act.

Limitation of Time for compulsory Purchase of Lands :

three years after special Act.

And with respect to Interests in Lands which have by Mistake been omitted to be purchased, be it enacted as follows :

Interests omitted to be purchased.

124. If, at any Time after the Promoters of the Undertaking shall have entered upon any Lands which, under the Provisions of this or the special Act or any Act incorporated therewith, they were authorized to purchase, and which shall be permanently required for the Purposes of the special Act, any Party shall appear to be entitled to any Estate, Right, or Interest in or Charge affecting such Lands which the Promoters of the Undertaking shall through Mistake or Inadvertence have failed or omitted duly to purchase or to pay Compensation for, then, whether the Period allowed for the Purchase of Lands^a shall have expired or not, the Promoters of the Undertaking shall remain in the undisturbed Possession of such Lands, provided,—within Six Months after Notice of such Estate, Right, Interest, or Charge, in case the same shall not be disputed by the Promoters of the Undertaking,—or in case the same shall be disputed, then within Six Months after the Right thereto shall have been finally established by Law in favour of the Party claiming the same,—the Promoters of the Undertaking shall purchase or pay Compensation for the same, and shall also pay to such Party, or to any other Party who may establish a Right thereto, full Compensation for the mesne Profits or Interest which would have accrued to such Parties respectively in respect thereof during the Interval between the Entry of the Promoters of the Undertaking thereon and the Time of the Payment of such Purchase Money or Compensation by the Promoters of the Undertaking, so far as such mesne Profits or Interest may be recoverable in Law or Equity ; and such Purchase Money or Compensation shall be agreed on or awarded and paid, in like Manner as, according to the Provisions of this Act^b, the same respectively would have been agreed on or awarded and paid in case the Promoters of

Company empowered to purchase Interests in Lands the Purchase whereof may have been omitted by Mistake.

^a § 123.

^b § 6, 16 *et seq.*

the Undertaking had purchased such Estate, Right, Interest, or Charge before their entering upon such Land, or as near thereto as Circumstances will admit.

How Value
of such
Lands or
Interests to
be estimated.

125. In estimating the Compensation to be given for any such last-mentioned Lands, or any Estate or Interest in the same, or for any mesne Profits thereof, the Jury, or Arbitrators, or Justices, as the Case may be^a, shall assess the same according to what they shall find to have been the Value of such Lands, Estate, or Interest, and Profits, at the Time such Lands were entered upon by the Promoters of the Undertaking, and without regard to any Improvements or Works made in the said Lands by the Promoters of the Undertaking, and as though the Works had not been constructed.

Company to
pay the Costs
of Litigation
as to such
Lands.

126. In addition to the said Purchase Money, Compensation, or Satisfaction, and before the Promoters of the Undertaking shall become absolutely entitled to any such Estate, Interest, or Charge, or to have the same merged or extinguished for their Benefit, they shall, when the Right to any such Estate, Interest, or Charge shall have been disputed by the Company and determined in favour of the Party claiming the same, pay the full Costs and Expenses of any Proceedings at Law or in Equity for the Determination or Recovery of the same, to the Parties with whom any such Litigation in respect thereof shall have taken place ; and such Costs and Expenses shall, in case the same shall be disputed, be settled by the proper Officer of the Court in which such Litigation took place.

*Sale of
superfluous
Land.*

And with respect to Lands acquired by the Promoters of the Undertaking under the Provisions of this or the special Act or any Act incorporated therewith, but which shall not be required for the Purposes thereof, be it enacted as follows:

Lands not
wanted to be
sold, or in
default to
vest in
Owners of
adjoining
Lands :

127. Within the prescribed Period, or, if no Period be prescribed, within Ten Years after the Expiration of the Time limited by the special Act for the Completion of the Works, the Promoters of the Undertaking shall absolutely sell and dispose of all such superfluous Lands, and apply the Purchase Money arising from such Sales to the Purposes of the special Act ; and in Default thereof, all such superfluous Lands remain-

Limit of
time, 10
years.

^a § 9, 22, 23, 39 et seq.

Party complained against, or upon the Oath of One credible Witness or more, it shall be lawful for such Justices to convict the Offender, and upon such Conviction to adjudge the Offender to pay the Penalty or Forfeiture incurred, as well as such Costs attending the Conviction as such Justices shall think fit. Costs.

137. If, forthwith upon any such Adjudication as aforesaid, the Amount of the Penalty or Forfeiture, and of such Costs as aforesaid, be not paid, the Amount of such Penalty and Costs shall be levied by Distress; and such Justices or either of them shall issue their or his Warrant of Distress accordingly. Penalties to be levied by Distress.

138. Where in this or the special Act, or any Act incorporated therewith, any Sum of Money, whether in the Nature of Penalty, Costs, or otherwise, is directed to be levied by Distress, such Sum of Money shall be levied by Distress and Sale of the Goods and Chattels of the Party liable to pay the same; and the Overplus arising from the Sale of such Goods and Chattels, after satisfying such Sum of Money, and the Expenses of the Distress and Sale, shall be returned, on Demand, to the Party whose Goods shall have been distrained. Penalties how to be levied.

139. The Justices by whom any such Penalty or Forfeiture shall be imposed, may, where the Application thereof is not otherwise provided for, award not more than One Half thereof to the Informer, and shall award the Remainder to the Overseers of the Poor of the Parish in which the Offence shall have been committed, to be applied in aid of the Poor's Rate of such Parish^a; or if the Place wherein the Offence shall have been committed shall be extra-parochial, then such Justices shall direct such Remainder to be applied in aid of the Poor's Rate of such extra-parochial Place, or if there shall not be any Poor's Rate therein, in aid of the Poor's Rate of any adjoining Parish or District. Application of Penalties.

140. If any such Sum shall be payable by the Promoters of the Undertaking, and if sufficient Goods of the said Promoters cannot be found whereon to levy the same, it may, if the Amount thereof do not exceed Twenty Pounds, be recovered by Distress of the Goods of the Treasurer of the said Distress against the Treasurer.

^a In Ireland, the Poor Rate is assessed and levied, not upon the Parish, but upon the Electoral Division, which is the area of rating. Where Parishes and Electoral Divisions are not coterminous (and they rarely are,) the Penalty will, under this provision, be applicable in aid of the portion of the Electoral Division or Divisions composing the parish.

Costs of such Arbitration shall be in the Discretion of the Arbitrators.

Lands to be conveyed to the Purchasers.

131. Upon Payment or Tender to the Promoters of the Undertaking, of the Purchase Money so agreed upon or determined as aforesaid, they shall convey such Lands to the Purchasers thereof, by Deed under the Common Seal of the Promoters of the Undertaking, if they be a Corporation, or if not a Corporation under the Hands and Seals of the Promoters of the Undertaking or any Two of the Directors or Managers thereof acting by the Authority of the Body; and a Deed so executed shall be effectual to vest the Lands comprised therein in the Purchaser of such Lands, for the Estate which shall so have been purchased by him; and a Receipt under such Common Seal, or under the Hands of Two of the Directors or Managers of the Undertaking as aforesaid, shall be a sufficient Discharge to the Purchaser of any such Lands, for the Purchase Money in such Receipt expressed to be received.

"Grant;"
Effect of
the Word
in Conveyances.

132. In every Conveyance of Lands to be made by the Promoters of the Undertaking under this or the special Act the Word "Grant" shall operate as express Covenants by the Promoters of the Undertaking, for themselves and their Successors, or for themselves, their Heirs, Executors, Administrators, and Assigns, as the Case may be, with the respective Grantees therein named, and the Successors, Heirs, Executors, Administrators, and Assigns of such Grantees, according to the Quality or Nature of such Grants, and of the Estate or Interest therein expressed to be thereby conveyed, as follows, except so far as the same shall be restrained or limited by express Words contained in any such Conveyance; that is to say,

A Covenant that, notwithstanding any Act or Default done by the Promoters of the Undertaking, they were at the Time of the Execution of such Conveyance seised or possessed of the Lands or Premises thereby granted for an indefeasible Estate of Inheritance in Fee Simple, free from all Incumbrances done or occasioned by them, or otherwise for such Estate or Interest as therein expressed to be thereby granted, free from Incumbrances done or occasioned by them :

A Covenant that the Grantee of such Lands, his Heirs, Successors, Executors, Administrators, and Assigns, (as

the Case may be,) shall quietly enjoy the same against the Promoters of the Undertaking and their Successors, and all other Persons claiming under them, and be indemnified and saved harmless by the Promoters of the Undertaking and their Successors from all Incumbrances created by the Promoters of the Undertaking :

A Covenant for further Assurance of such Lands, at the Expense of such Grantee, his Heirs, Successors, Executors, Administrators, or Assigns, (as the Case may be,) by the Promoters of the Undertaking or their Successors, and all other Persons claiming under them :

And all such Grantees, and their several Successors, Heirs, Executors, Administrators, and Assigns, respectively, according to their respective Quality or Nature, and the Estate or Interest in such Conveyance expressed to be conveyed, may in all Actions brought by them assign Breaches of Covenants, as they might do if such Covenants were expressly inserted in such Conveyances.

133. *And be it enacted, That* if the Promoters of the Undertaking become possessed, by virtue of this or the special Act or any Act incorporated therewith, of any Lands charged with the Land Tax, or liable to be assessed to the Poor's Rate, they shall from Time to Time, until the Works shall be completed and assessed to such Land Tax or Poor's Rate, be liable to make good the Deficiency in the several Assessments for Land Tax and Poor's Rate by reason of such Lands having been taken or used for the Purposes of the Works ; and such Deficiency shall be computed according to the Rental at which such Lands, with any Building thereon, were valued or rated at the Time of the passing of the special Act ; and on Demand of such Deficiency, the Promoters of the Undertaking, or their Treasurer, shall pay all such Deficiencies to the Collector of the said Assessments respectively ; nevertheless, if at any Time the Promoters of the Undertaking think fit to redeem such Land Tax, they may do so, in accordance with the Powers in that Behalf given by the Acts for the Redemption of the Land Tax.

Land Tax and Poor's Rate.

Depreciation of assessments to be made good :

with power to redeem Land Tax.

134. *And be it enacted, That* any Summons or Notice, or any Writ or other Proceeding at Law or in Equity, requiring

Service of Notices, &c. upon Company.

to be served upon the Promoters of the Undertaking, may be served by the same being left at or transmitted through the Post directed to the principal Office of the Promoters of the Undertaking, or One of the principal Offices where there shall be more than One, or being given or transmitted through the Post directed to the Secretary, or in case there be no Secretary the Solicitor of the said Promoters.

Damages.
Tender of
Amends.

135. *And be it enacted, That* if any Party shall have committed any Irregularity, Trespass, or other wrongful Proceeding in the Execution of this or the special Act, or any Act incorporated therewith, or by virtue of any Power or Authority thereby given, and if, before Action brought in respect thereof, such Party make Tender of sufficient Amends to the Party injured, such last-mentioned Party shall not recover in any such Action; and if no such Tender shall have been made, it shall be lawful for the Defendant, by Leave of the Court where such Action shall be pending, at any Time before Issue joined, to pay into Court such Sum of Money as he shall think fit, and thereupon such Proceedings shall be had as in other Cases where Defendants are allowed to pay Money into Court.

Recovery of
Penalties.

And with respect to the Recovery of Forfeitures, Penalties, and Costs, be it enacted as follows :

Penalties
to be sum-
marily reco-
vered be-
fore Two
Justices :

Summons
and Service ;

136. Every Penalty or Forfeiture imposed by this or the special Act, or by any Bye-law made in pursuance thereof, the Recovery of which is not otherwise provided for, may be recovered by Summary Proceeding before Two Justices; and on Complaint being made to any Justice, he shall issue a Summons requiring the Party complained against to appear before Two Justices at a Time and Place to be named in such Summons; and every such Summons shall be served on the Party offending, either in Person or by leaving the same with some Inmate at his usual Place of Abode; and upon the Appearance of the Party complained against, or in his Absence after Proof of the due Service of such Summons, it shall be lawful for any Two Justices to proceed to the Hearing of the Complaint, and that although no Information in Writing or in Print shall have been exhibited before them; and upon Proof of the Offence, either by the Confession of the

Party complained against, or upon the Oath of One credible Witness or more, it shall be lawful for such Justices to convict the Offender, and upon such Conviction to adjudge the Offender to pay the Penalty or Forfeiture incurred, as well as such Costs attending the Conviction as such Justices shall think fit. Costs.

137. If, forthwith upon any such Adjudication as aforesaid, the Amount of the Penalty or Forfeiture, and of such Costs as aforesaid, be not paid, the Amount of such Penalty and Costs shall be levied by Distress; and such Justices or either of them shall issue their or his Warrant of Distress accordingly. Penalties to be levied by Distress.

138. Where in this or the special Act, or any Act incorporated therewith, any Sum of Money, whether in the Nature of Penalty, Costs, or otherwise, is directed to be levied by Distress, such Sum of Money shall be levied by Distress and Sale of the Goods and Chattels of the Party liable to pay the same; and the Overplus arising from the Sale of such Goods and Chattels, after satisfying such Sum of Money, and the Expenses of the Distress and Sale, shall be returned, on Demand, to the Party whose Goods shall have been distrained. Penalties how to be levied.

139. The Justices by whom any such Penalty or Forfeiture shall be imposed, may, where the Application thereof is not otherwise provided for, award not more than One Half thereof to the Informer, and shall award the Remainder to the Overseers of the Poor of the Parish in which the Offence shall have been committed, to be applied in aid of the Poor's Rate of such Parish^a; or if the Place wherein the Offence shall have been committed shall be extra-parochial, then such Justices shall direct such Remainder to be applied in aid of the Poor's Rate of such extra-parochial Place, or if there shall not be any Poor's Rate therein, in aid of the Poor's Rate of any adjoining Parish or District. Application of Penalties.

140. If any such Sum shall be payable by the Promoters of the Undertaking, and if sufficient Goods of the said Promoters cannot be found whereon to levy the same, it may, if the Amount thereof do not exceed Twenty Pounds, be recovered by Distress of the Goods of the Treasurer of the said Distress against the Treasurer.

^a In Ireland, the Poor Rate is assessed and levied, not upon the Parish, but upon the Electoral Division, which is the area of rating. Where Parishes and Electoral Divisions are not coterminous (and they rarely are,) the Penalty will, under this provision, be applicable in aid of the portion of the Electoral Division or Divisions composing the parish.

Promoters, and the Justices aforesaid, or either of them, on Application, shall issue their or his Warrant accordingly; but no such Distress shall issue against the Goods of such Treasurer unless Seven Days previous Notice in Writing, stating the Amount so due, and demanding Payment thereof, have been given to such Treasurer, or left at his Residence; and if such Treasurer pay any Money under such Distress as aforesaid, he may retain the Amount so paid by him, and all Costs and Expenses occasioned thereby, out of any Money belonging to the Promoters of the Undertaking coming into his Custody or Control, or he may sue them for the same.

Distress not
unlawful for
Informality.

141. No Distress levied by virtue of this or the special Act, or any Act incorporated therewith, shall be deemed unlawful, nor shall any Party making the same be deemed a Trespasser, on account of any Defect or Want of Form in the Summons, Conviction, Warrant of Distress, or other Proceeding relating thereto, nor shall such Party be deemed a Trespasser *ab initio* on account of any Irregularity afterwards committed by him, but all Persons aggrieved by such Defect or Irregularity may recover full Satisfaction for the special Damage in an Action upon the Case.

Penalties to
be sued for
within Six
Months.

142. No Person shall be liable to the Payment of any Penalty or Forfeiture imposed by virtue of this or the special Act, or any Act incorporated therewith, for any Offence made cognizable before a Justice, unless the Complaint respecting such Offence shall have been made before such Justice within Six Months next after the Commission of such Offence.

Justice may
summon
Witnesses;

143. It shall be lawful for any Justice to summon any Person to appear before him as a Witness in any Matter in which such Justice shall have Jurisdiction under the Provisions of this or the special Act, at a Time and Place mentioned in such Summons, and to administer to him an Oath to testify the Truth in such Matter; and if any Person so summoned shall, without reasonable Excuse, refuse or neglect to appear at the Time and Place appointed for that Purpose, having been paid or tendered a reasonable Sum for his Expenses, or if any Person appearing shall refuse to be examined upon Oath, or to give Evidence before such Justice, every such Person shall forfeit a Sum not exceeding Five Pounds for every such Offence*.

Oath;
Penalty.

* And under § 149, false Evidence is punishable as Perjury (p. 298.)

144. The Justices before whom any Person shall be convicted of any Offence against this or the special Act, or any Act incorporated therewith, may cause the Conviction to be drawn up according to the Form in the Schedule (C.) to this Act annexed^a.

Form of
Conviction.

145. No Proceeding in pursuance of this or the special Act, or any Act incorporated therewith, shall be quashed or vacated for Want of Form, nor shall the same be removed by Certiorari or otherwise into any of the Superior Courts.

Proceedings
not void for
Informality:

no Certiorari.

146. If any Party shall feel aggrieved by any Determination or Adjudication of any Justice with respect to any Penalty or Forfeiture under the Provisions of this or the special Act, or any Act incorporated therewith, such Party may appeal to the General Quarter Sessions for the County or Place in which the Cause of Appeal shall have arisen; but no such Appeal shall be entertained unless it be made within Four Months next after the making of such Determination or Adjudication, nor unless Ten Days Notice in Writing of such Appeal, stating the Nature and Grounds thereof, be given to the Party against whom the Appeal shall be brought, nor unless the Appellant forthwith after such Notice enter into Recognizances, with Two sufficient Sureties, before a Justice, conditioned duly to prosecute such Appeal, and to abide the Order of the Court thereon.

Appeal to
Quarter Ses-
sions against
decision of
Justice:

Limit of
time for
appeal:

Notice.

Security

147. At the Quarter Sessions for which such Notice shall be given, the Court shall proceed to hear and determine the Appeal in a summary Way, or they may, if they think fit, adjourn it to the following Sessions; and upon the Hearing of such Appeal, the Court may, if they think fit, mitigate any Penalty or Forfeiture, or they may confirm or quash the Adjudication, and order any Money paid by the Appellant or levied by Distress upon his Goods, to be returned to him, and may also order such further Satisfaction to be made to the Party injured as they may judge reasonable; and they may make such Order concerning the Costs, both of the Adjudication and of the Appeal, as they may think reasonable.

Quarter Ses-
sions to de-
cide appeal,
and make
such Order as
they think
reasonable:

Costs.

148. Provided always, and be it enacted, That, notwithstanding anything herein or in the special Act or any Act incorporated therewith contained, every Penalty and For-

Proviso as to
application
of Penalties
in Metropoli-
tan Police
District.

feiture imposed by this or the special Act or any Act incorporated therewith, or by any Bye-law in pursuance thereof, in respect of any Offence which shall take place within the Metropolitan Police District^a, shall be recovered, enforced, accounted for, and, except where the Application thereof is otherwise specially provided for, shall be paid to the Receiver of the Metropolitan Police District, and shall be applied in the same Manner as Penalties or Forfeitures, other than Fines upon drunken Persons, or upon Constables for Misconduct, or for Assaults upon Police Constables, are directed to be recovered, enforced, accounted for, paid, and applied by an Act passed in the Third Year of the Reign of Her present Majesty, intituled *An Act for regulating the Police Courts in the Metropolis*^a; and every Order or Conviction of any of the Police Magistrates in respect of any such Forfeiture or Penalty shall be subject to the like Appeal, and upon the same Terms, as is provided in respect of any Order or Conviction of any of the said Police Magistrates by the said last-mentioned Act; and every Magistrate by whom any Order or Conviction shall have been made shall have the same Power of binding over the Witnesses who shall have been examined, and such Witnesses shall be entitled to the same Allowance of Expenses, as he or they would have had or been entitled to in case the Order, Conviction, and Appeal had been made in pursuance of the Provisions of the said last-mentioned Act.

2 & 3 Vict.
c. 71.

Persons
giving false
Evidence
liable to
Penalties of
Perjury.

149...Any Person who, upon any Examination upon Oath under the Provisions of this or the special Act, or any Act incorporated therewith, shall wilfully and corruptly give false Evidence, shall be liable to the Penalties of wilful and corrupt Perjury.^b

Access to
special Act.

And with respect to the Provision to be made for affording Access to the special Act by all Parties interested, be it enacted as follows :

Copies of
special Act
to be kept
and depo-
sited, and
allowed to
be inspected.

150. The Company shall, at all Times after the Expiration of Six Months after the passing of the special Act, keep in their principal Office of Business a Copy of the special Act, printed by the Printers to Her Majesty, or some of them ; and

^a 2 & 3 Vic. c. 71 : London Metropolitan Police Act.

^b And see § 143, for non-attendance or refusal to give evidence (p. 296.)

where the Undertaking shall be a Railway, Canal, or other like Undertaking, the Works of which shall not be confined to One Town or Place, shall also within the Space of such Six Months deposit in the Office of each of the Clerks of the Peace of the several Counties into which the Works shall extend, a Copy of such special Act so printed as aforesaid; and the said Clerks of the Peace shall receive, and they and the Company respectively shall retain, the said Copies of the special Act, and shall permit all Persons interested to inspect the same, and make Extracts or Copies therefrom, in the like Manner and upon the like Terms*, and under the like Penalty for Default*, as is provided in the Case of certain Plans and Sections by an Act passed in the First Year of the Reign of Her present Majesty, intituled *An Act to compel Clerks of the Peace for Counties and other Persons to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament*†.

151. If the Company shall fail to keep or deposit, as hereinbefore mentioned, any of the said Copies of the special Act, they shall forfeit Twenty Pounds for every such Offence, and also Five Pounds for every Day afterwards during which such Copy shall be not so kept or deposited. Penalty on Company failing to keep or deposit Act.

152. And be it enacted, That this Act shall not extend to Scotland. Extent of Act Scotland.

SCHEDULES

REFERRED TO IN THE FOREGOING ACT.

SCHEDULE (A.)^b

Form of Conveyance.

I, _____, of _____, in Consideration of the Sum of _____ paid [to me, or, as the Case may be, into the Bank of England or Bank of Ireland]. In the Name and with the Privy of the Accountant General of the Court of Chancery, ex parte "The Promoters of the Undertaking" [naming them] or to A.B. of _____ and C.D. of _____ Two Trustees appointed to receive the same], pursuant to the [here name the special Act], by the [here name the Company or other Promoters of the Undertaking], incorporated [or constituted] by the said Act, do hereby con-

* 1 Vic. c. 83; (XXIII. 2, 3.)

^b § 81, (p. 268.)

vey to the said Company [*or other Description*], their Successors and Assigns, all [*describing the Premises to be conveyed*], together with all Ways, Rights, and Appurtenances thereto belonging, and all such Estate, Right, Title, and Interest in and to the same as I am or shall become seised or possessed of, or am by the said Act empowered to convey, to hold the Premises to the said Company [*or other Description*], their Successors and Assigns, for ever, according to the true Intent and Meaning of the said Act. In witness whereof, I have hereunto set my Hand and Seal, the Day of in the Year of our Lord .

SCHEDULE (B.)^a

Form of Conveyance on Chief Rent.

I, , of , in Consideration of the Rentcharge to be paid to me, my Heirs and Assigns, as herein-after mentioned, by "The Promoters of the Undertaking" [*naming them*], incorporated [*or constituted*] by virtue of the [*here name the special Act*], do hereby convey to the said Company [*or other Description*], their Successors and Assigns, all [*describing the Premises to be conveyed*], together with all Ways, Rights, and Appurtenances thereunto belonging, and all my Estate, Right, Title, and Interest in and to the same and every Part thereof, to hold the said Premises to the said Company [*or other Description*], their Successors and Assigns, for ever, according to the true Intent and Meaning of the said Act, they the said Company [*or other description*], their Successors and Assigns, yielding and paying unto me, my Heirs and Assigns, One clear yearly Rent of by equal quarterly [*or half-yearly, as agreed upon,*] Portions henceforth on the [*stating the Days*], clear of all Taxes and Deductions. In witness whereof I hereunto set my Hand and Seal, the Day of in the Year of our Lord .

SCHEDULE (C.)

Form of Conviction^b.

to wit.

Be it remembered, That on the Day of in the Year of our Lord A.B., is convicted before us, C.D., Two of Her Majesty's Justices of the Peace for the County of [*here describe the Offence generally, and the Time and Place when and where committed*], contrary to the [*here name the special Act*]. Given under our Hands and Seals, the Day and Year first above written.

C.D.

^a § 81, (p. 268.)

^b § 144 (p. 297.)

XX.—LANDS, IRELAND.

14 & 15 VICT., CAP. 70.

An Act to alter and amend certain Provisions of the Lands
Clauses Consolidation Act, 1845, so far as relates to *Ire-*
land.

[7th August, 1851.]

WHEREAS, on account of Circumstances connected with the
Tenure of Land in *Ireland*, the Provisions of the Lands Clauses ^{s. 116 c. 12}
Consolidation Act, 1845, are found to be unsuited to the ex-
isting Condition of that Country; and it is expedient that
some Provision should be made for ascertaining the Purchase
Money or Compensation to be paid by Railway Companies in
Ireland for the Lands required for their Undertakings, and
for determining Differences with respect to the Works to be
made and maintained by such Companies for the Accommo-
dation of the Owners and Occupiers of Lands adjoining such
Railways: Be it therefore enacted^a...as follows:

1. In citing this Act in other Acts of Parliament, legal ^{Short Title of}
Instruments, Proceedings at Law or in Equity, and all other ^{Act.}
Instruments and Proceedings whatsoever, it shall be sufficient
to use the Expression "The Railways Act (*Ireland*), 1851."

2. This Act shall apply to every Railway in *Ireland* ^{Act to apply}
authorized to be made by any Act passed in this Session of ^{to future}
Parliament, or which shall hereafter be passed, and which ^{Railways in}
shall authorize the Purchase or Taking of Lands for such Rail- ^{Ireland,}
way, and also to every Railway or Portion of a Railway in ^{except}
Ireland by any Act heretofore passed authorized to be made
in relation to which the compulsory Powers for taking Lands
are still in force; and this Act shall be incorporated with and
form Part of the Acts authorizing the said Undertakings:
Provided always, that this Act shall not apply to the Rail-
ways authorized to be made by "The *Waterford and Limerick*
Railway Amendment Act, 1850," "The *Dublin and Drogheda*

Waterford
and Lime-
rick;

Dublin and
Drogheda;

^a See note ^a in p. 1.

^b 13 & 14 Vict. c. xxix: see ^c, in p. 302.

Dundalk and Enniskillen; Midland; Waterford and Limerick; Killarney Junction; Longford and Liffy.

Railway Act, 1850^a," "The *Dundalk and Enniskillen Railway Act, 1850^b*," and "The *Midland Great Western Railway of Ireland (Deviation and Amendment) Act, 1850^c*," "The *Waterford and Limerick Railway Deviation Act, 1851^d*," and "The *Killarney Junction Railway Act, 1851^e*," "The *Longford Line and Liffy Branch, 13 & 14 Vict.^f*" or to which the Provisions of such Acts respectively are applicable, and shall not in anywise interfere with or affect the Provisions of such Acts.

Certain Provisions of Lands Clauses Act not to apply to Irish Railways.

3. The Clauses of "The Lands Clauses Consolidation Act, 1845," *with respect to the Purchase and taking of Lands otherwise than by Agreement*, except Sections Sixteen and Seventeen^g of the said Act, shall not be applicable or in force with respect to any Railway or Portion of a Railway in *Ireland* to which this Act applies^h.

Company to make and deposit Maps, Schedules, and Estimates:

Accommodation Works:

4. When and so often as any Company authorized to make a Railway to which this Act applies^h shall require to purchase or take any Lands which they are by the Special Act authorized to purchase or take, the Company shall cause to be made out, and to be signed by their Engineer and Secretary, Maps or Plans and Schedules of the Lands so required (and for the Purchase of which Lands, or of all the several Interests in which Lands, the Company shall not have contracted), and also of the Works which the Company propose to make and maintain for the Accommodation of Lands adjoining the Railway (and for Compensation in lieu of which the Company shall not have contracted), together with the Names of the Owners or reputed Owners, Lessees or reputed Lessees, and Occupiers of the said Lands respectively, so far as the same

^a 13 & 14 Vict. c. xlv.

^b 13 & 14 Vict. c. lxxvi.

^c 13 & 14 Vict. c. lxxxviii.

^d 14 & 15 Vict. c. cx : see ^e, in p. 301.

^e 14 & 15 Vict. c. ciii.

^f This reference appears surplusage and erroneous. There is no special act under this title in the Statute Book of 13 & 14 Vict. : but provisions are included in the Midland Great Western Railway Company's Act, 13 & 14 Vict. c. lxxxviii. already mentioned in the previous part of the section (see ^g), for proceeding with the construction of the Liffy Branch and Longford Deviation, the powers under a previous act of 1846, "the Midland Great Western Railway of Ireland (Liffy Branch and Longford Deviation) Act, 1846,"—9 & 10 Vict. c. ccx.—having expired.

^g 8 Vict. c. 18, § 16, 17 (p. 246.) Sections 18-68 (p. 247 *et seq.*) of the Lands Clauses Consolidation Act, 1845, are hereby virtually repealed so far as regards Ireland. The rest of that act is incorporated herewith; see § 29 (p. 316.)

^h For Railways to which this act applies, see preceding § 2. And see § 29 incorporating Lands Clauses Act with this act (p. 316.)

can be reasonably ascertained, with Estimates of the gross annual Value and the Value in Fee of such Lands so required to be purchased or taken as aforesaid, and for the Purchase of which, or of all the several Interests in which, the Company shall not have contracted, and the separate and distinct Value of each such Interest which the Company shall not have contracted to purchase, so far as the same can be reasonably ascertained (taking into consideration Damage by Severance, and any other Matters by the Lands Clauses Consolidation Act, 1845, required to be considered, if necessary); and every such Map or Plan shall be upon a Scale of not less than One Inch to every Two hundred Feet; and all Lands, Buildings, Yards and Courtyards, and Lands within the Cortilage of any Building, and Ground cultivated as a Garden, shall be marked thereon with distinct Numbers corresponding with the Numbers marked upon the Parliamentary Plans of the Railway; and shall have put thereon a distinct Valuation to each Number; and all Bridges, Roads, and other Works proposed to be made for the Use and Accommodation of the Owners, Lessees, and Occupiers of the Lands adjoining the Railway shall also be marked on the said Maps or Plans; and the Company shall deposit such Maps or Plans, Schedules and Estimates, at the Office of the Commissioners of Public Works in *Ireland*, and a Copy of such Maps or Plans, Schedules and Estimates, or so much thereof as relates to every County in or through which the Railway is proposed to be made, with the Clerk of the Peace of each such County, and a Copy of so much of the said Maps or Plans, Schedules and Estimates, as relates to each Electoral Division in which any such Lands shall be situate, with the Clerk of the Poor Law Union in which every such Electoral Division is situate*.

5. After such Deposit at the Office of the said Commissioners as aforesaid, it shall be lawful for the said Commissioners, upon the Application of the Company, to appoint an Arbitrator between the Company and the Persons interested in the Lands to which such Maps or Plans, Schedules and Estimates relate; and such Arbitrator shall, in relation to the Lands required and the Works to be made and maintained by the Company, as herein mentioned, be the Arbitrator under this Act; and if any such Arbitrator die, or refuse, decline, or

Estimates:

Scale of
Maps, &c.Lands, &c.,
to be indi-
cated by
numbers:Accommoda-
tion Works
to be shown:to be depo-
sited with
Board of
Works:Clerks of
Peace:Clerks of
Unions.Board of
Works to
appoint an
Arbitrator,
on Applica-
tion of Com-
pany.

* And see § 11, (p. 307,) as to Clerks of Peace and Clerks of Unions.

Provision for
vacancy.

become incapable to act, the said Commissioners may appoint an Arbitrator in his Place, who shall have the same Powers and Authorities as the Arbitrator first appointed.

Arbitrator
may call for
Documents,
and admin-
ister Oaths.

6. The Arbitrator may call for the Production of any Documents in the Possession or Power of the Company, or of any Party making any Claim under the Provisions of this Act, which such Arbitrator may think necessary for determining any Question or Matter to be determined by him under this Act, and may examine any such Party and his Witnesses, and the Witnesses for the Company, on Oath, and administer the Oaths necessary for that Purpose.

Arbitrator to
make and
subscribe
Declaration.

7. Before any Arbitrator shall enter upon any Inquiry he shall, in the Presence of a Justice of the Peace, make and subscribe the following Declaration ; that is to say,

‘I, *A. B.*, do solemnly and sincerely declare, That I will faithfully and honestly, and to the best of my Skill and Ability, hear and determine the Matters referred to me under the Provisions of the Act [*naming this Act*]. ‘*A. B.*

‘Made and subscribed in the Presence of .’

Violation of
Declaration,
a Misdemeanor.

And such Declaration shall be annexed to the Award when made; and if any Arbitrator, having made such Declaration, wilfully act contrary thereto, he shall be guilty of a Misdemeanor.

Maps, &c.
deposited
with Board of
Works to be
delivered to
Arbitrator.
Notice of
Appointment
of Arbitra-
tor, &c. to
be published
in Gazette
and News-
paper.

8. Upon the First Appointment of an Arbitrator as aforesaid, the said Commissioners shall deliver to such Arbitrator the Maps or Plans, Schedules and Estimates, deposited at their Office as herein-before required^a; and the Company shall forthwith after such Appointment publish Notice of such Appointment, and of such Deposits as herein-before directed^a with such Clerk of the Peace and Clerks of Poor Law Unions as aforesaid, once in the *Dublin Gazette*, and once in each of Three successive Weeks in some One and the same Newspaper circulated in the County in which the Lands are situate, stating the Times and Places of such Deposits, and requiring all Persons claiming to have any Right to or Interest in the Lands required for the Purposes of the Railway, and specified in such Maps or Plans, or to have Compensation for any Injury to any Lands injuriously affected by the Execution of the Works of the Company, or to have any Works made by the Company for the Accommodation of Lands adjoining the Railway, to deliver to the Arbitrator, on or before a Day fixed

by the Arbitrator and named in such Notice (and which Day shall not be earlier than Thirty-one Days from the Date of the Insertion of the last of such Newspaper Notices), a short Statement in Writing of the Nature of such Claim; and upon the Appointment of any Arbitrator in the Place of an Arbitrator dying, or refusing, declining, or becoming incapable to act, all the Documents relating to the Matter of the Arbitration which were in the Possession of such Arbitrator shall be delivered to the Arbitrator appointed in his Place, and the Company shall publish Notice of such Appointment in the *Dublin Gazette*.

9. The Arbitrator shall, after the Expiration of the Period within which such Claims are required to be delivered to him as aforesaid, proceed to inquire into and adjudicate upon the Value of the Lands required for the Purposes of the Railway, and specified in such Maps or Plans, and the several Interests in such Lands, in respect of which no Agreement shall have been come to between the Company and the Persons entitled thereto, and the Purchase Money to be paid for such Lands, and the Compensation to be paid for Injury to any Lands injuriously affected by the Execution of the Works of the Company, and to inquire and determine what Works should be made and maintained by the Company for the Accommodation of Lands adjoining the Railway; and the Arbitrator shall, after due Inquiry and Examination, frame a Draft Award setting forth the Price or Compensation to be paid by the Company in respect of the several Interests in the Lands so required and specified or injuriously affected, and the Works to be made and maintained by the Company for the Accommodation of Lands adjoining the Railway; and where any Inquiry relates not only to the Value of the Lands to be purchased, but also to Compensation claimed for Injury done or to be done to any Lands held therewith, the Arbitrator shall award separate and distinct Sums to be paid for the Purchase of such Lands or of any Interest therein to which the Inquiry may relate, and for the Damage (if any) to be sustained by reason of the severing of the Lands taken from the other Lands, or otherwise injuriously affecting such other Lands by the Exercise of the Powers of the Company; and

Arbitrator to adjudicate upon Compensation to be paid for Lands and upon Accommodation Works.

Arbitrator to frame a draft award; nature of award:

Injury from severance of lands.

Draft award
to be depo-
sited with
Board of
Works,
Clerks of
Peace, Clerks
of Unions;

and notice
thereof to be
published.

Meetings for
hearing
objections.

Final award.

Final award
binding, sub-
ject to Tra-
verse.

such Draft Award, and Copies thereof, or of so much thereof as relates to Lands in the respective Counties and Electoral Divisions shall be deposited as herein-before directed^a concerning the said Maps or Plans, Schedules and Estimates, and Copies thereof, or of so much thereof as aforesaid; and the Arbitrator shall cause Notice of such Award to be given to all Persons entitled to Payment or Compensation under the same, or who shall have been heard before such Arbitrator as Claimants for Compensation, and also shall cause Notice to be published as herein-before directed^b concerning Notice of the Deposit of Copies of the said Maps or Plans, Schedules and Estimates, or so much thereof as aforesaid, of the Deposit of Copies of such Draft Award, or of so much thereof as aforesaid; and shall in such Notices appoint a Time and Place, or Times and Places, for holding a Meeting or Meetings to hear Objections against such Draft Award (the first such Meeting to be not earlier than Twenty-one Days after the last Day of Publication of the said Notice), and shall hold such Meeting or Meetings accordingly, and thereat hear and determine any Objections which may then and there be made to such Draft Award by any Person interested therein, or adjourn the further Hearing thereof, if the Arbitrator see fit, to a future Meeting, and may take any Measures which he may deem proper for ascertaining the Value of any such Lands or Interests as aforesaid, or the Justice or Propriety of any other Matter of such Draft Award, and may from Time to Time, if he see Occasion, appoint and hold further Meetings for hearing and determining Objections to such Draft Award, of which further Meetings, when not holden by Adjournment, Notice shall be given in Manner herein-before directed; and when the Arbitrator has heard and determined all such Objections, and made such Inquiries as he may think necessary in relation thereto, and made such Alterations (if any) as he may deem proper in the Draft Award, he shall make his Award under his Hand and Seal accordingly; and every such Award shall be binding and conclusive, subject to the Provisions concerning Traverse herein-after contained^c upon all Persons whomsoever; and no such Award shall be set aside for Irregularity in Matter of Form; and every such Award,

^a § 4.

^b § 8.

^c § 26.

and Copies thereof, or of so much thereof as relates to Lands in the respective Counties and Electoral Divisions, shall be deposited as herein-before directed^a with respect to the said Maps or Plans, Schedules and Estimates, and Copies thereof, or of so much thereof as aforesaid; and the Company shall thereupon publish Notice as herein-before directed^b concerning Notice of the Deposit of Copies of such Maps or Plans, Schedules and Estimates, or of so much thereof as aforesaid, of the Deposit of Copies of such Award, or of so much thereof as aforesaid, and requiring all Persons claiming to have any Right to or Interest in the Lands, the Price or Compensation to be paid in respect of which is ascertained by such Award, to deliver to the Company, on or before a Day to be named in such Notice (such Day not being earlier than Thirty-one Days from the Date of the last Publication of the Notice), a short Statement in Writing of the Nature of such Claim, and a short Abstract of the 'Title' on which the same is founded; and such Statement and Abstract shall be paid for by the Company.

10. Provided always, that the Arbitrator may make several Awards, so as to include in a separate Award the Lands in each Electoral Division, or such Portion of the Lands in relation to which he is Arbitrator, as, having reference to the Deposits to be made under this Act, the Meetings to be holden, and the Inquiries to be made in relation to such Lands, and the Convenience of the Parties interested in the Matter of the Arbitration, he may think fit.

Separate awards may be made as to Lands in the several Parishes or otherwise.

11. Every Clerk of the Peace and Clerk of any Union is hereby required to retain the Documents to be deposited with him under this Act^c in his Custody; and to permit all Persons interested to inspect the same, and to make Copies and Extracts of and from the same, in the like Manner, and upon the like Terms, and under the like Penalty for Default, as is provided by an Act of the Session holden in the Seventh Year of King William the Fourth and the First Year of Her Majesty, Chapter Eighty-three^d.

Clerks of the Peace and Clerks of Unions to take charge of Documents deposited under this act, as under 1 Vict. c. 61.

^a § 4.

^b § 8.

^c And see § 20 as to further evidence of title.

^d § 4, 9.

^e 1 Vict. c. 83, (XXIII. p. 318); and see note * in p. 319.

Expenses of
the Arbitra-
tor, &c., to be
paid by the
Company ;

on Certificate
of Commis-
sioners of
Works ;

and security
may be
required.

Costs of
Parties,
where certi-
fied by Arbi-
trator, to be
paid by
Company ;

but not where
award is less
than had
been offered.

Certificates
of Amount of
Compensa-
tion awarded,
to be de-
livered to
parties by
Company.

12. The Salary or Remuneration, travelling and other Expenses of the Arbitrator, and all Costs, Charges, and Expenses (if any,) which shall be incurred by the said Commissioners of Public Works in carrying the Provisions of this Act into execution, shall be paid by the Company ; and the Amount of such Costs, Charges, and Expenses shall from Time to Time be certified by the said Commissioners, after first hearing any Objections that may be made to the Reasonableness of any such Costs, Charges, and Expenses by or on behalf of the Company ; and it shall be lawful for the said Commissioners from Time to Time to require the Company to deposit in the Bank of *Ireland*, to the Credit of the said Commissioners, any Sum or Sums of Money, or to give such other Security for the Payment of any such Costs, Charges, and Expenses as to the said Commissioners shall seem fit ; and every Certificate of the said Commissioners, certifying the Amount of such Costs, Charges, and Expenses, shall be taken as Proof in all Proceedings at Law or in Equity of the Amount of such respective Costs, Charges, and Expenses ; and the Amount so certified shall be a Debt due from the Company to the Crown, and shall be recoverable accordingly.

13. It shall be lawful for the Arbitrator, where he thinks fit, upon the Request of any Party by whom any Claim has been made before him, to certify the Amount of the Costs properly incurred by such Party in relation to the Arbitration, and the Amount of the Costs so certified shall be paid by the Company ; and if within Seven Days after Demand, the Amount so certified be not paid to the Party entitled to receive the same, such Amount shall be recoverable by Distress, and on Application to any Justice he shall issue his Warrant accordingly ; but no such Certificate shall be given where the Arbitrator has awarded the same or a less Sum than has been offered by the Company in respect of such Claim before the Commencement of the Arbitration.

14. Within Thirty Days from the Delivery of such Statement and Abstract as aforesaid* to the Company, the Company shall, where it appears to them that any Person so claiming is absolutely entitled to the Lands, Estate, or Interest claimed by him, deliver to such Person, on Demand, a

Certificate under the Company's Seal, stating the Amount of the Price or Compensation to which he is entitled under the said Award^a; and where more Lands than are included in One Number shall be claimed by the same Person, such Lands, or the Interests therein, may be included in One Certificate, if the Company think fit, such Certificates to be prepared by and at the Costs of the Company; and where any Agreement has been entered into in respect to the Value of the Interest of any Person in any Lands, or his Right to Compensation, the Company may, where it appears to them that such Person is absolutely entitled, deliver to such Person a like Certificate.

15. The Company shall, on Demand, pay to the Party to whom any such Certificate is given, or otherwise as herein provided in the Cases herein-after mentioned^b, the Amount of Monies specified to be payable by such Certificate to the Party to whom or in whose Favour such Certificate is given, his or her Executors, Administrators, or Assigns; and if the Company wilfully make default in such Payment as aforesaid, then the Party named in such Certificate shall be entitled to enter up Judgment against the Company in the Court of Queen's Bench in *Ireland* for the Amount of the Sums specified in such Certificate, in the same Manner in all respects as if he had been, by Warrant of Attorney from the Company, authorized to enter up Judgment for the Amount mentioned in the Certificate, with Costs, as is usual in like Cases; and all Monies payable under such Certificates, or to be recovered by such Judgments as aforesaid, shall at Law and in Equity be taken as Personal Estate as from the Time of the Company entering on any such Lands as aforesaid.

16. When and so soon as the Company have paid to the Party to whom any such Certificate as aforesaid is given, or otherwise, as herein provided, in the Cases herein-after mentioned^b, the Amount specified to be payable by such Certificate to the Party to whom or in whose Favour the Certificate is given, his Executors, Administrators, or Assigns, it shall be lawful for the Company, upon obtaining such Receipt as herein after mentioned^c, from Time to Time to enter upon

Amount mentioned in Certificates to be paid to Parties, on Demand, &c.

In default of payment, judgment may be entered.

Personal Estate.

When Amount mentioned in Certificates is paid to Parties, Company may take possession.

^a Provision where Company withhold Certificate; § 21.

^b § 19, 22, &c.

^c § 17.

any Lands^a in respect of which such Certificate is given, and thenceforth to hold the same for the Estate or Interest in respect of which the Amount specified in such Certificate was payable.

Receipts
duly stamped
to operate as
a Convey-
ance :

Stamp duty.

Payment of
Monies
where Par-
ties making
claims
deemed not
entitled, or
are under
Disability, or
Title not
satisfactorily
deduced.

Where no
Claim made,
or Parties
refuse to
accept Sum
certified,
Money to be
paid into the
Bank.

17. In every Case in which any Monies are paid by any Company under the Provisions of this Act, for such Price or Compensation as aforesaid, the Party receiving such Monies shall give to the Company a Receipt for the same; and such Receipt shall have the Effect of a Grant, Release, and Conveyance of all the Estate and Interest of such Party, and of all Parties claiming under or through him, in the Lands in respect of which such Monies are paid, so as such Receipt shall have an *ad valorem* Stamp of the same Amount impressed thereon in respect of the Purchase Monies mentioned in such Certificate (but exclusive of the Amount of Compensation for Damage by Severance or other Injury) as would have been necessary if such Receipt had been an actual Conveyance of such Estate or Interest; every such Receipt to be prepared by and at the Costs of the Company.

18. If it appear to the Company, from any such Statement and Abstract as aforesaid^b, or otherwise, that the Party making any such Claim as aforesaid is not absolutely entitled to the Lands, Estate, or Interest in respect of which his Claim is made, or is under any Disability, or if the Title to such Lands, Estate, or Interest be not satisfactorily deduced to the Company, then and in every such Case the Amount to be paid by the Company in respect of such Lands, Estate, or Interest as aforesaid shall be paid and applied as provided by the Clauses of "The Lands Clauses Consolidation Act, 1845," *with respect to the Purchase Money or Compensation coming to Parties having limited Interests, or prevented from treating, or not making Title*^c.

19. Where any Person claiming any Right or Interest in any Lands shall refuse to produce his Title to the same, or where the Company have taken possession of any Lands under the Provisions of this Act in respect of the Price or

^a Provision for taking possession on deposit of amount awarded in draft award; § 22.

^b § 9.

^c 8 Vic. c. 18, § 69 *et seq.* (XIX. 69, p. 261, &c.)

Compensation whereof, or of any Estate or Interest wherein, no Claim has been made within One Year from the Time of the Company taking possession, or if any Party to whom any such Certificate^a has been given or tendered, refuse to receive such Certificate, or to accept the Amount therein specified as payable to him, then and in any such Case the Amount payable by the Company in respect of such Lands, Estate, or Interest, or the Amount specified in such Certificate, shall be paid into the Bank of *Ireland*, in the Name and with the Privity of the Accountant-General of the Court of Chancery in *Ireland*, in manner provided by the last-mentioned Clauses of "The Lands Clauses Consolidation Act, 1845"^b; and the Amount so paid into the said Bank shall be accordingly dealt with as by the said Act provided: and no Monies paid into the Bank under this Act shall be liable to Usher's Poundage.

20. Nothing herein contained shall prevent the Company from requiring any further Abstract or Evidence of Title respecting any Lands included in any such Award as aforesaid, in addition to the Abstract or Statement herein-before mentioned^c, if they think fit, so as the same be obtained at the Costs of the Company.

Nothing to prevent Company requiring further Evidence of Title, at their Costs.

21. If, from any reason whatever, the Company shall not deliver the Certificate aforesaid^d to any Party claiming to be entitled to any Interest in any Lands the Possession whereof has been taken by the Company as aforesaid, then the Right to have a Certificate according to the Provisions of this Act may, at the Costs and Charges of the Company, be enforced by any Party or Parties, by Application to the High Court of Chancery in *Ireland* in a summary Way by Petition; and all other Rights and Interests of any Party or Parties arising under the Provisions of this Act may be in like Manner enforced against the Company by such Application as aforesaid.

Delivery of Certificate may be enforced by Court of Chancery.

22. Provided always, That where the Company are desirous, for the Purposes of their Works, of entering upon any Lands before they would be entitled to enter thereon under the Provisions herein-before contained^e, it shall be lawful for the

After Deposit of Draft Award Company may, upon Deposit of

such Amount
as Arbitrator
may think
fit. enter
upon Lands.

But proceed-
ings on
Award to be
completed as
in other
cases.

Company to
pay Interest
from Time
of Entry.

Interest re-
coverable
like Prin-
cipal.

Mode of
deposit.

Company, at any Time after the Arbitrator shall have framed his Draft Award^a, upon depositing in the Bank of *Ireland*, as herein directed, such Sum as the Arbitrator may certify to be in his Opinion the proper Amount to be so deposited in respect of any Lands authorized to be purchased or taken by the Company, and mentioned in such Draft Award, to enter upon and use such Lands for the Purposes of the Railway and Works of the Company ; and the Arbitrator shall, upon the request of the Company, at any Time after he shall have framed such Draft Award, certify under his Hand the Sum which in his Opinion should be so deposited by the Company in respect of any Lands mentioned in such Draft Award before they enter upon and use the same as aforesaid ; and the Sum to be so certified shall be the Sum or the Amount of the several Sums set forth in such Draft Award as the Sum or Sums to be paid by the Company in respect of such Lands, or such greater Amount as to the Arbitrator, under the Circumstances of the Case, may seem proper ; and, notwithstanding such Entry as aforesaid, all Proceedings for and in relation to the Completion of the Award, the Delivery of Certificates, and other Proceedings under this Act, shall be had, and Payments made, as if such Entry and Deposit had not been made ; provided that the Company shall, where they enter upon any Lands by virtue of this present Provision, pay Interest at the Rate of Five Pounds *per Centum per Annum* upon the Purchase and Compensation Money payable by them in respect of any Lands so entered upon, from the Time of their Entry until the Time of the Payment of such Money and Interest to the Party entitled thereto, or where, under the Provisions of this Act, such Purchase Money or Compensation is required to be paid into the said Bank, then until the same, with such Interest, is paid into such Bank accordingly ; and where, under this Provision, Interest is payable on any Purchase or Compensation Money, the Certificate to be delivered by the Company in respect thereof shall specify that Interest is so payable, and the same shall be recoverable in like Manner as the Principal Money mentioned in such Certificate.

23. The Money to be deposited as aforesaid in respect of any Lands shall be paid into the Bank of *Ireland* in the Name

and with the Privity of the Accountant-General of the Court of Chancery in *Ireland*, to be placed to his Account there, to the Credit of the Company (describing the Company by its proper Name), in the Matter of the Railways Act (*Ireland*), 851, and of the Lands in respect of which the same is paid, subject to the Control and Disposition of the said Court; and upon such Deposit, the Cashier of the said Bank shall give to the Company, or to the Party paying in such Money by their Direction, a Receipt for the same.

24. The Money so deposited as last aforesaid shall remain in the Bank by way of Security to the Parties interested in the Lands which shall so have been entered upon, for the Payment of the Money to become payable by the Company in respect thereof under the Award of the Arbitrator; and the Money so deposited may, on the Application by Petition of the Company, be ordered to be invested in Bank Annuities or Government Securities, and accumulated; and upon such Payment as aforesaid by the Company, it shall be lawful for the Court of Chancery in *Ireland*, upon a like Application, to order the Money so deposited, or the Funds in which the same shall have been invested, together with the Accumulation thereof, to be repaid or transferred to the Company, or, in default of such Payment as aforesaid by the Company, it shall be lawful for the said Court to order the same to be applied in such Manner as it shall think fit for the Benefit of the Parties for whose Security the same shall so have been deposited.

Deposit to remain as a Security, and to be applied under the Direction of the Court.

25. If at any Time the Company be unable, by reason of the closing of the Office of the Accountant-General of the said Court of Chancery, to obtain his Authority in respect of the Payment of any Sum of Money so authorized to be deposited in the Bank by way of Security as aforesaid, it shall be lawful for the Company to pay into the Bank, to such Credit as aforesaid (subject nevertheless to being dealt with as herein provided), such Sum of Money as the Company shall by some Writing signed by the Secretary or Solicitors for the Time being, addressed to the Governor and Company of the Bank in that Behalf, request; and upon any such Payment being made, the Cashier of the Bank shall give a Certificate thereof; and in every such Case, within Ten Days after the re-opening of the said Accountant-General's Office, the Solicitor for the

Company may deposit Money by way of Security while the Office of the Accountant-General is closed.

Company shall there bespeak the Direction for the Payment of such Sum into the Name of the Accountant-General; and upon Production of such Direction at the Bank of *Ireland*, the Money so previously paid in shall be placed to the Credit of the said Accountant-General accordingly, and the Receipt for the said Payment be given to the Party making the same in the usual Way, for the Purpose of being filed at the Report Office.

Parties dissatisfied with Award, may enter a Traverse at Assizes.

26. Where the Party named in any Certificate issued under the Provisions herein-before contained of the Amount of the Price or Compensation ascertained by any Award under this Act^a (or any Party claiming under the Party so named) shall be dissatisfied with the Amount in such Certificate certified to be payable, and where any Party claiming any Interest in any Monies so paid into Court as aforesaid shall be dissatisfied with the Amount of the Price or Compensation in respect of which such Monies shall be so paid into Court, and where any Party interested in Land adjoining any Railway shall be dissatisfied with any Award under this Act so far as respects any Works for the Accommodation of such Lands thereby awarded to be made and maintained by the Company, or which such Party may claim to have so made and maintained, it shall be lawful for such Party, at the Assizes for the County in which the Lands are situate, or where the Lands are situate in the County of *Dublin* or County of the City of *Dublin*, in the Term next following the giving of such Certificate, or the Payment of such Money into Court, or (if the Claim be only in respect of Accommodation Works) the making of the Award, or where such Assizes are holden or such Term begins within less than Twenty-one Days after the giving of such Certificate, or the Payment of such Money, or the making of the Award, then at the next subsequent Assizes, or in the next subsequent Term (as the Case may be), upon giving Ten Days Notice in Writing previously to such Assizes or Term respectively to the Secretary of the Company, of the Amount or the Accommodation Works intended to be claimed, to have a Traverse for Damages entered in the Crown Book in respect of such Claim; and thereupon such Traverse shall be tried in like Manner, and like Proceedings shall be had, and subject to like Provisions,

Notice.

so far as the same can be applied, as in the Case of Traverses entered for Damages under the Acts for consolidating and amending the Laws relating to the Presentment of Public Monies by Grand Juries in *Ireland*: Provided always, that the Sum to be awarded or allowed as the Costs, Charges, and Expenses of the Trial of every such Traverse for Damages shall in no Case exceed the Sum of Twenty Pounds, and further that no Party shall have any other Remedy for the Purpose of impeaching the Amount of any Price or Compensation ascertained by any such Award as aforesaid, or the Sufficiency of the Accommodation Works awarded thereby, other than by means of such Traverse as aforesaid, anything in any Act to the contrary notwithstanding: Provided also, that the Jury which shall try such Traverse shall be sworn a true Verdict to give, whether any and what Damages will be sustained by the Traverser, regard being had to the Value of the Lands of such Traverser required, and to the Injury to any Lands of such Traverser injuriously affected by the Works of the Company, or (as the Case may be) as to what Accommodation Works ought to be made and maintained by the Company for the Accommodation of the Lands of the Traverser, or to the like Effect respectively, as the Case may be.

27. The Entry of the Verdict of the Jury in case of each Traverse in the Crown Book shall be a final Decision and binding upon all Parties interested, and shall have the Effect of a Judgment at Law obtained in the Court of Queen's Bench in *Ireland* against the Company, and may be enforced by like Remedies against the Company, as in the Case of a Judgment at Law, by all Parties interested therein; and in each Case where a Certificate shall have been delivered, such Damages shall be taken and recovered in lieu of the Monies expressed to be payable by the Certificate, and which shall, on Payment of the Damages, and any Costs payable by the Company, be delivered up to the said Company; and such Receipt for such Damages shall be given as is herein-before provided* in Cases of Payment of Monies on such Certificates as aforesaid; and where such Damages shall be given in respect of any Land, the Amount of the Price or Compensation in respect of which, as ascertained by an Award under this Act, shall have been

Limitation
of Costs, &c.

Verdict.

Verdict on
Traverse to
be final and
have Effect of
a Judgment.

Damages.

Costs.

paid into Court, then if the Amount of such Damages shall be less than the Amount paid into Court, the Company shall, on a summary Application by Petition, be entitled to receive the Difference between the Amount of such Damages and the Amount of the Sum paid into Court; but if the Amount of such Damages shall exceed the Amount of the Monies paid into Court, then the Difference between the Amount paid in and the Damages shall, at the Costs of the Company, be paid into Court; and the Payment of such Difference into Court, and the Payment of any Costs payable by the Company in respect of such Traverse, shall be a good Discharge to the Company on any such Verdict in the Nature of a Judgment as aforesaid.

Lands for extraordinary Purposes.

8 & 9 Vict. c. 18, incorporated with this Act.

Meaning of "the Company."

Act to extend to Ireland only.

Continuance of Act, Five Years.

28. The Provisions of this Act shall extend to the Purchase by the Company of Lands for extraordinary Purposes^a.

29. All the Provisions of "The Lands Clauses Consolidation Act, 1845," shall, subject to the Provisions herein contained, extend to and be taken as Part of this Act, except so far as the same are inconsistent therewith^b.

30. In the Construction of this Act, the Words "the Company" shall mean the Company constituted by the Special Act.

31. This Act shall extend to *Ireland* only.

32. This Act shall continue in force for Five Years next after the passing thereof, and thence to the End of the then next Session of Parliament^c.

^a See § 12 *et seq.* of 8 Vic. c. 18 (p. 245, &c.) as to purchase of Lands for extraordinary purposes.

^b Sections 18-68 (p. 247-261) of the Lands Clauses Consolidation Act, 1845 (8 Vic. c. 18) are not applicable with respect to Railways in Ireland: see § 3 of present act (p. 302).

^c The Act accordingly expired with the Parliament dissolved on 21st March, 1857: but was renewed by an act of 29 July, 1856 (19 & 20 Vic. c. 72) for a year from that date and for one Session of Parliament after it, namely, to the end of the Session of 1858: (p. 317). The act has since been renewed and continued for a further period of a year and a Session, which in ordinary course will expire with the Session of 1860: see 21 & 22 Vic. c. 34, (p. 317).

XXI.—LANDS, IRELAND.

19 & 20 VICT., CAP. 72.

An Act to continue "The Railways Act (*Ireland*), 1851."

[29th July, 1856.]

WHEREAS an Act was passed in the Session of Parliament holden in the Fourteenth and Fifteenth Years of the Reign of Her present Majesty, intituled *An Act to alter and amend certain Provisions of the Lands Clauses Consolidation Act, 1845,* ^{14 & 15 Vict. c. 70.} *so far as relates to Ireland*^a, which Act was to continue in force for Five Years next after the passing thereof, and thence to the End of the then next Session of Parliament: And whereas it is expedient that the said Act should be continued: Be it therefore enacted...^b

1. That the said recited Act shall continue in force for One Year next after the passing of this Act, and thence to the End ^{Recited Act continued till 1858.} of the then next Session of Parliament^c.

XXII.—LANDS, IRELAND.

21 & 22 VICT., CAP. 34.

An Act to continue "The Railways Act (*Ireland*), 1851."

[12th July, 1858.]

WHEREAS an Act was passed in the Session of Parliament held in the Fourteenth and Fifteenth Years of the Reign of Her Majesty, Chapter Seventy, intituled *An Act to alter and amend certain Provisions of the Lands Clauses Consolidation Act, 1845,* ^{14 & 15 Vict. c. 70.} *so far as relates to Ireland*^a, which Act was to continue in force for Five Years next after the passing thereof, and thence to the End of the then next Session of Parliament: And whereas

^a "The Railways Act, Ireland, 1851," 14 & 15 Vic. c. 70, (XX. p. 301.)

^b See note ^a in p. 1.

^c i.e.,—to the end of the Session of 1858, which terminated on 2nd August, 1858, when this act expired. The act of 1851 has, however, been again renewed and continued by 21 & 22 Vic. c. 34 (XXII.) for a year and a session after 12 July, 1858;—i.e., in ordinary course, till the end of the Session in 1860.

19 & 20 Vict.
c. 72.

by an Act passed in the Session of Parliament held in the Nineteenth and Twentieth Years of the Reign of Her Majesty, Chapter Seventy-two, the said first-recited Act was continued for One Year next after the passing of that Act, and thence to the End of the then next Session of Parliament^a: And whereas it is expedient that the said first-recited Act should be further continued: Be it therefore enacted...^b

Railways
Act, Ireland,
continued for
a year and a
Session.

1. That the said first-recited Act shall continue in force for One Year next after the passing of this Act, and thence to the End of the then next Session of Parliament^c.

XXIII.—DEPOSIT OF PLANS, &C. UNDER STANDING ORDERS.

1 VICT., CAP. 83.

An Act to compel Clerks of the Peace for Counties, and other Persons, to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament.

[17th July, 1837.]

Maps, Plans,
&c., of Pub-
lic Works, to
be deposited
under
Standing
Orders.

WHEREAS the Houses of Parliament are in the Habit of requiring that, previous to the Introduction of any Bill into Parliament for making certain Bridges, Turnpike Roads, Cuts, Canals, Reservoirs, Aqueducts, Waterworks, Navigations, Tunnels, Archways, Railways, Piers, Ports, Harbours, Ferries, Docks, and other Works to be made under the Authority of Parliament, certain Maps or Plans and Sections, and Books and Writings, or Extracts or Copies of or from certain Maps, Plans, or Sections, Books and Writings, shall be deposited in the Office of the Clerk of the Peace for every County, Riding, or Division in *England* or *Ireland*, or in the Office of the Sheriff Clerk of every County in *Scotland*, in which such Work is proposed to be made, and also with the Parish Clerk of every Parish in *England*, the Schoolmaster

^a 19 & 20 Vic. c. 72,—(XXI. p. 317.)

^b See note ^a in p. 1.

^c *i.e.*, in ordinary course, to the end of the Session of 1850.

of every Parish of *Scotland*, or in Royal Burghs with the Town Clerk, and the Postmaster of the Post Town in or nearest to every Parish in *Ireland*, in which such Work is intended to be made, and with other Persons: And whereas it is expedient that such Maps, Plans, Sections, Books, Writings, and Copies or Extracts of and from the same, should be received by the said Clerks of the Peace, Sheriff Clerks, Parish Clerks, Schoolmasters, Town Clerks, Postmasters, and other Persons, and should remain in their Custody for the Purposes herein-after mentioned: Be it therefore enacted^a...

That whenever either of the Houses of Parliament shall by its Standing Orders, already made or hereafter to be made, require that any such Maps, Plans, Sections, Books, or Writings, or Extracts or Copies of the same, or any of them, shall be deposited as aforesaid, such Maps, Plans, Sections, Books, Writings, Copies, and Extracts, shall be received by and shall remain with the Clerks of the Peace, Sheriff Clerks, Parish Clerks, Schoolmasters, Town Clerks, Postmasters, and other Persons^b with whom the same shall be directed by such Standing Orders to be deposited; and they are hereby respectively directed to receive and to retain the Custody of all such Documents and Writings so directed to be deposited with them respectively, in the Manner, and for the Purposes, and under the Rules and Regulations concerning the same respectively directed by such Standing Orders; and shall make such Memorials and Endorsements on and give such Acknowledgments and Receipts in respect of the same respectively as shall be thereby directed.

Clerks of the Peace and other local officers, to receive the Documents herein mentioned, and retain them for the Purposes directed by the Standing Orders of the House of Parliament:

and give Certificates, &c.

2...All Persons interested shall have Liberty to, and the said Clerks of the Peace, Sheriff Clerks, Parish Clerks, Schoolmasters, Town Clerks, and Postmasters^c, and every of

Clerks of the Peace, &c., to permit such Documents to be inspected or copied by Persons interested.

^a See note ^a in p. 1.

^b See note ^a on § 2.

^c The existing Parliamentary Standing Orders, in the case of Rail way Bills, &c., require, amongst other things, that plans, sections, and book of reference for each parish in or through which the proposed works are to be made, should be deposited before the act is passed, with the local officers named, and amongst others, in Ireland with the Clerk of each Poor Law Union within which the parish or part of it may be included. And under § 1 of this act, the Clerks of Unions, &c., are to receive and retain such or other documents so required to be deposited with them, doubtless for the purpose of their being kept open for public inspection and use as provided in § 2. But there appears to be an omission of any reference to Clerks of Unions, either specifically or by general words, in the latter section, (the words "or other person" being omitted in § 2.)

Fees

Clerks of the Peace, &c., for every Obstruction to comply with the Provisions of this Act liable to the Penalty of £500 to be recovered in a summary Way

them, are and is hereby required, at all reasonable Hours of the Day, to permit all Persons interested to inspect during a reasonable Time and make Extracts from or Copies of the said Maps, Plans, Sections, Books, Writings, Extracts and Copies of or from the same, so deposited with them respectively, on Payment by each Person to the Clerk of the Peace, Sheriff Clerk, Clerk of the Parish, Schoolmaster, Town Clerk, or Postmaster* having the Custody of any such Map, Plan, Section, Book, Writing, Extract, or Copy, One Shilling for every such Inspection, and the further Sum of One Shilling for every Hour during which such Inspection shall continue after the first Hour, and after the Rate of Sixpence for every One Hundred Words copied therefrom.

3. In case any Clerk of the Peace, Sheriff Clerk, Parish Clerk, Schoolmaster, Town Clerk, Postmaster, or other Person shall in any Matter or Thing refuse or neglect to comply with any of the Provisions herein-before contained, every Clerk of the Peace, Sheriff Clerk, Parish Clerk, Schoolmaster, Town Clerk, Postmaster, or other Person* shall for every such Offence forfeit and pay any Sum not exceeding the Sum of Five Pounds, and every such Penalty shall, upon Proof to the Officer before any Justice of the Peace for the County within which such Offence shall be committed, or by the Confession of the Party offending, or by the Oath of any credible Witness, be levied and recovered, together with the

the provisions of which require the other local officers therein named to permit such inspection and allow extracts or copies to be made, on receipt of the fees awarded to them for the same.

The general words "or other person," are used in § 3 under which a Clerk of the Peace would be liable to a penalty for refusing or neglecting to comply with any of the provisions *hereinbefore contained*; and this would certainly apply to a refusal to comply with the requirements of § 1 in which the general words employed include Clerks of the Peace to whom the Standing Orders

Owing to the omission in § 2 which does not embrace all the persons apparently intended to be included, in that the Clerks of Unions or other persons are described, it could not rest on the Peace nor on the other local officers as Penalties for not permitting inspection and copies be enforced against them.

A special provision has since been made in the Railways Act 1825, as to the duties of Clerks of Unions as well as Clerks of Peace in regard to documents to be deposited with them under that act *after the Company is authorized by its special Act to make a Railway* see § 14 & 15 V. c. 11 (XX. p. 307). The act of 1 Vic. c. 83 refers to documents under the standing orders, *before* the Company is so authorized.

* See preceding note in p. 319-20.

Costs of the Proceedings for the Recovery thereof, by Distress and Sale of the Goods and Effects of the Party offending, by Warrant under the Hand of such Justice, (which Warrant such Justice is hereby empowered to grant,) and shall be paid to the Person or Persons making such Complaint; and it shall be lawful for any such Justice of the Peace to whom any Complaint shall be made of any Offence committed against this Act to summon the Party complained of before him, and on such Summons to hear and determine the Matter of such Complaint in a summary Way, and on Proof of the Offence to convict the Offender, and to adjudge him to pay the Penalty or Forfeiture incurred, and to proceed to recover the same, although no Information in Writing or in Print shall have been exhibited or taken by or before such Justice; and all such Proceedings by Summons without Information shall be as good, valid, and effectual to all Intents and Purposes as if an Information in Writing had been exhibited.

and paid to
Complain-
ant.

XXIV.—DEPOSIT OF MONEY UNDER STANDING ORDERS.

9 VICT., CAP. 20.

An Act to amend an Act of the Second Year of Her present Majesty*, for providing for the Custody of certain Monies paid in pursuance of the Standing Orders of either House of Parliament, by Subscribers to Works or Undertakings to be effected under the Authority of Parliament.

[18th June, 1846.]

WHEREAS an Act was passed in the Second Year of the Reign of Her present Majesty Queen Victoria, intituled* *An Act to provide for the Custody of certain Monies paid, in pursuance of the Standing Orders of either House of Parliament, by Sub-*

* The act 1 & 2 Vic. c. 117 here referred to, being altogether repealed by § 1 of the present act, by which, however, it is substantially re-enacted with amendments, it is considered unnecessary to insert the former act in the present volume.

1 & 2 Vic. c.
117 repealed,
except as to
anything
already done
or Money
already
paid in.

Authority
to deposit
money :

and Banks
with which
to be depo-
sited.

scribers to Works or Undertakings to be effected under the Authority of Parliament^a: And whereas it is expedient that the said Act should be repealed, and should be re-enacted, with such Modifications, Extensions, and Alterations, as after mentioned: Be it therefore enacted^b...That the said Act^a shall be and is hereby repealed: Provided always, that all Acts done under the Provisions of the said Act shall be good, valid, and effectual to all Intents and Purposes, and that all Sums of Money paid under the Provisions of the said Act^a shall be dealt with in all respects as if this Act had not been passed.

2...In all Cases in which any Sum of Money is required by any Standing Order of either House of Parliament, either now in force or hereafter to be in force, to be deposited by the Subscribers to any Work or Undertaking which is to be executed under the Authority of an Act of Parliament, if the Director or Person or Directors or Persons having the Management of the Affairs of such Work or Undertaking, not exceeding Five in Number, shall apply to One of the Clerks in the Office of the Clerk of the Parliaments with respect to any such Money required by any Standing Order of the Lords Spiritual and Temporal in Parliament assembled, or to One of the Clerks of the Private Bill Office of the House of Commons with respect to any such Money required by any Standing Order of the Commons in Parliament assembled, to be deposited, it shall be lawful for the Clerk so applied to, by Warrant or Order under his Hand, to direct that such Sum of Money shall be paid in Manuer herein-after mentioned; that is to say, into the Bank of *England*, in the Name and with the Privity of the Accountant General of the Court of Chancery in *England*, if the Work or Undertaking in respect of which the Sum of Money is required to be deposited is intended to be executed in that Part of the United Kingdom called *England*; or into any of the Banks in *Scotland* established by Act of Parliament or Royal Charter, in the Name and with the Privity of the Queen's Remembrancer of the Court of Exchequer in *Scotland*, at the Option of the Person or Persons making such Application as aforesaid, in case such Work or Undertaking is intended to be executed in that Part of the United Kingdom called *Scotland*; or into the Bank of

See note ^a in p. 321.

^b See note ^a in p. 1.

Ireland, in the Name and with the Privity of the Accountant General of the Court of Chancery in *Ireland*, in case such Work or Undertaking is intended to be made or executed in that Part of the United Kingdom called *Ireland*: and such Warrant or Order shall be a sufficient Authority for the Accountant General of the Court of Chancery in *England*, the Queen's Remembrancer of the Court of Exchequer in *Scotland*, and the Accountant General of the Court of Chancery in *Ireland*, respectively, to permit the Sum of Money directed to be paid by such Warrant or Order, to be placed to an Account opened or to be opened in his Name in the Bank mentioned in such Warrant or Order.

3...It shall be lawful for the Person or Persons named in such Warrant or Order, or the Survivors or Survivor of them, to pay the Sum mentioned in such Warrant or Order into the Bank mentioned in such Warrant or Order, in the Name and with the Privity of the Officer or Person in whose Name such Sum shall be directed to be paid by such Warrant or Order, to be placed to his Account there *ex parte* the Work or Undertaking mentioned in such Warrant or Order, pursuant to the Method prescribed by any Act or Acts for the Time being in force for regulating Monies paid into the said Courts, and pursuant to the general Orders of the said Courts respectively, and without Fee or Reward; and every such Sum so paid in, or the Securities in or upon which the same may be invested as herein-after mentioned*, or the Stocks, Funds, or Securities authorized to be transferred or deposited in lieu thereof as herein-after mentioned^b, shall there remain until the same, with all Interest and Dividends, if any, accrued thereon, shall be paid out of such Bank, in pursuance of the Provisions of this Act^c: Provided always, that in case any such Director or Person, Directors or Persons, having the Management of any such proposed Work or Undertaking as aforesaid, shall have previously invested in the Three *per Centum* Consolidated or the Three *per Centum* Reduced Bank Annuities, Exchequer Bills or other Government Securities, the Sum or Sums of Money required by any such Standing Order of either House of Parliament as aforesaid to be deposited by the Subscribers to any Work or Undertaking

Payment of
Deposit.

Proviso:
transfer of
stock in lieu
of lodgment
of money

* § 4.

^b Proviso in § 3, p. 323-4.

^c § 5.

which is to be executed under the Authority of an Act of Parliament, it shall be lawful for the Person or Persons named in such Warrant or Order, or the Survivors or Survivor of them, to deposit such Exchequer Bills or other Government Securities in the Bank mentioned in such Warrant or Order in the Name and with the Privity of the Officer or Person in whose Name such Sum shall by such Warrant or Order be directed to be paid, or to transfer such Government Stocks or Funds into the Name of the Officer or Person ; and such Transfer or Deposit shall be directed by such Clerk of the Office of the Clerk of the Parliaments, or such Clerk of the Private Bill Office of the House of Commons, as the Case may be, in lieu of Payment of so much of the Sum of Money required to be deposited as aforesaid as the same Exchequer Bills or other the Government Stocks or Funds will extend to satisfy, at the Price at which the same were originally purchased by the said Person or Persons, Director or Directors as aforesaid, such Price to be proved by Production of the Broker's Certificate of such original Purchase.

Investment
of Deposit.

4...If the Person or Persons named in such Warrant or Order, or the Survivors or Survivor of them, desire to have invested any Sum so paid into the Bank of *England* or the Bank of *Ireland*, or any Interest or Dividend which may have accrued on any Stocks or Securities so transferred or deposited as aforesaid, the Court, in the Name of whose Accountant General the same may have been paid, may, on a Petition presented to such Court in a summary Way by him or them, order that such Sum or such Interest or Dividends shall, until the same be paid out to the Parties entitled to the same in pursuance of this Act, be laid out in the Three *per Centum* Consolidated or Three *per Centum* Reduced Bank Annuities, or any Government Security or Securities, at the Option of the aforesaid Person or Persons, or the Survivor or Survivors of them.

Repayment
of Deposit.

5...On the Termination of the Session of Parliament in which the Petition or Bill for the Purpose of making or sanctioning any such Work or Undertaking shall have been introduced into Parliament,—or if such Petition or Bill shall be rejected or finally withdrawn by some Proceeding in either House of Parliament, or shall not be allowed to proceed,—or if the Person or Persons by whom the said Money was paid or

Security deposited shall have failed to present a Petition,—or if an Act be passed authorizing the making of such Work or Undertaking,—and if in any of the foregoing Cases the Person or Persons named in such Warrant or Order, or the Survivors or Survivor of them, or the Majority of such Persons, apply by Petition to the Court in the Name of whose Accountant General the Sum of Money mentioned in such Warrant or Order shall have been paid, or such Exchequer Bills, Stocks, or Funds shall have been deposited or transferred as aforesaid*, or to the Court of Exchequer in *Scotland*, in case such Sum of Money shall have been paid in the Name of the said Queen's Remembrancer, the Court in the Name of whose Accountant General or Queen's Remembrancer such Sum of Money shall have been paid, or such Exchequer Bills, Stocks, or Funds shall have been deposited or transferred*, shall by Order direct the Sum of Money paid in pursuance of such Warrant or Order, or the Stocks, Funds, or Securities in or upon which the same may have been invested, and the Interest or Dividends thereof, or the Exchequer Bills, Stocks, or Funds so deposited or transferred as aforesaid*, and the Interest and Dividends thereof, to be paid or transferred to the Party or Parties so applying, or to any other Person or Persons whom they may appoint in that Behalf; but no such Order shall be made in the Case of any such Petition or Bill being rejected or not being allowed to proceed, or being withdrawn or not being presented, or of an Act being passed authorizing the making of such Work or Undertaking, unless upon the Production of the Certificate of the Chairman of Committees of the House of Lords with reference to any Proceeding in the House of Lords, or of the Speaker of the House of Commons with reference to any Proceeding in the House of Commons, that the said Petition or Bill was rejected or not allowed to proceed, or was withdrawn during its Passage through one of the Houses of Parliament, or was not presented, or that such Act was passed; which Certificate the said Chairman or Speaker shall grant on the Application in Writing of the Person or Persons, or the Majority of the Persons named in such Warrant, or the Survivor or Survivors of them: Provided always, that the granting of any such Certi- Granting

Certificate,
&c., not to
make the
Chairman or
Speaker
signing the
same liable.

ificate, or any Mistake or Error therein or in relation thereto, shall not make the Chairman or Speaker signing the same, liable in respect of any Monies, Stocks, Funds, and Securities which may be paid, deposited, invested, or transferred in pursuance of the Provisions of this Act, or the Interest or Dividends thereof.

XXV.—EVIDENCE OF DOCUMENTS.

8 & 9 VICT., CAP. 113.

An Act to facilitate the Admission in Evidence of certain official and other Documents.

[8th August, 1845.]

DOCUMENT-
ARY EVI-
DENCE.

WHEREAS it is provided by many Statutes that various Certificates, official and public Documents, Documents and Proceedings of Corporations and of Joint Stock and other Companies, and certified Copies of Documents, Bye Laws, Entries in Registers and other Books, shall be receivable in Evidence of certain Particulars in Courts of Justice, provided they be respectively authenticated in the Manner prescribed by such Statutes: And whereas the beneficial Effect of these Provisions has been found by Experience to be greatly diminished by the Difficulty of proving that the said Documents are genuine; and it is expedient to facilitate the Admission in Evidence of such and the like Documents: Be it therefore enacted^a...That whenever by any Act now in force or hereafter to be in force^b, any Certificate, official or public Document, or Document or Proceeding of any Corporation or Joint Stock or other Company, or any certified Copy of any Document, Bye Law, Entry in any Register or other Book, or of any other Proceeding, shall be receivable in Evidence^b of any Particular in any Court of Justice, or before any legal Tribunal, or either House of Parliament, or any Committee of either House, or in any judicial Proceeding, the same shall respectively be admitted in Evidence, provided they respectively

Certain
Documents
to be re-
ceived in
Evidence
without
Proof of
Seal or Sig-
nature, &c.

^a See note ^a in p. 1.

^b As in 8 Vic. c. 16, § 28, 98 (p. 70, 94); 8 Vic. c. 20, § 10, 67 (p. 127, 160); 13 & 14 Vic. c. xxxiii, § 18, 19 (p. 345-6); and elsewhere.

purport to be sealed or impressed with a Stamp, or sealed and signed, or signed alone, as required, or impressed with a Stamp and signed, as directed by the respective Acts made or to be hereafter made, without any Proof of the Seal or Stamp, where a Seal or Stamp is necessary, or of the Signature or of the official Character of the Person appearing to have signed the same, and without any further Proof thereof in every Case in which the original Record could have been received in Evidence.

2...All Courts, Judges, Justices, Masters in Chancery, Masters of Courts, Commissioners judicially acting, and other judicial Officers, shall henceforth take judicial Notice of the Signature of any of the Equity or Common Law Judges of the Superior Courts at *Westminster*, provided such Signature be attached or appended to any Decree, Order, Certificate, or other judicial or official Document.

Courts, &c.,
to take judicial
Notice of
Signature of
Equity or
Common
Law Judges,
&c.

3...All Copies of Private and Local and Personal Acts of Parliament not Public Acts, if purporting to be printed by the Queen's Printers, and all Copies of the Journals of either House of Parliament, and of Royal Proclamations, purporting to be printed by the Printers to the Crown or by the Printers to either House of Parliament, or by any or either of them, shall be admitted as Evidence thereof by all Courts, Judges, Justices, and others, without any Proof being given that such Copies were so printed.

Private Acts
printed by
Queen's
Printers,
Journals of
Parliament,
and Procla-
mations,
admissible as
Evidence.

4. Provided always, and be it enacted, That if any Person shall forge the Seal, Stamp, or Signature of any such Certificate, official or public Document, or Document or Proceeding of any Corporation or Joint Stock or other Company, or of any certified Copy of any Document, Bye Law, Entry in any Register or other Book, or other Proceeding as aforesaid; or shall tender in Evidence any such Certificate, official or public Document, or Document or Proceeding of any Corporation or Joint Stock or other Company, or any certified Copy of any Document, Bye Law, Entry in any Register or other Book, or of any other Proceeding, with a false or counterfeit Seal, Stamp, or Signature thereto, knowing the same to be false or counterfeit, whether such Seal, Stamp, or Signature be those of or relating to any Corporation or Company already established, or to any Corporation or Company to be hereafter established; or if any Person shall forge the Signature of

Offences:
Forging Seal,
Stamp, or
Signature of
Documents.

or tendering
same;

Forging Sig-

nature of
Judge; or
tendering
same;

Printing
Acts, or
Journals,
with false
purport; or
tendering
same;

Felony:

Punishment.

Documents
may be
impounded.

Scotland
exempted.
Alteration of
Act.

Commence-
ment of Act.

any such Judge as aforesaid to any Order, Decree, Certificate, or other judicial or official Document, or shall tender in Evidence any Order, Decree, Certificate, or other judicial or official Document with a false or counterfeit Signature of any such Judge as aforesaid thereto, knowing the same to be false or counterfeit; or if any Person shall print any Copy of any Private Act or of the Journals of either House of Parliament, which Copy shall falsely purport to have been printed by the Printers to the Crown, or by the Printers to either House of Parliament, or by any or either of them, or if any Person shall tender in Evidence any such Copy, knowing that the same was not printed by the Person or Persons by whom it so purports to have been printed,—every such Person shall be guilty of Felony, and shall upon Conviction be liable to Transportation for Seven Years, or to Imprisonment for any Term not more than Three nor less than One Year, with hard Labour: Provided also, that whenever any such Document as before mentioned shall have been received in Evidence by virtue of this Act, the Court, Judge, Commissioner, or other Person officiating judicially who shall have admitted the same, shall, on the Request of any Party against whom the same is so received, be authorized, at its or at his own Discretion, to direct that the same shall be impounded, and be kept in the Custody of some Officer of the Court or other proper Person, until further Order touching the same shall be given, either by such Court, or the Court to which such Master or other Officer belonged, or by the Persons or Person who constituted such Court, or by some One of the Equity or Common Law Judges of the Superior Courts at *Westminster* on Application being made for that Purpose*.

5... This Act shall not extend to *Scotland*^b.

6... This Act may be repealed, altered, or amended during this present Session of Parliament.

7... This Act shall take effect from the First Day of *November* next after the passing thereof.

* See further, in 14 & 15 Vic. c. 99, § 17, as to procedure against principal and accessories offending against this or that act (post, p. 331.)

^b See 14 & 15 Vic. c. 99, § 9, 10, relating to Ireland (p. 329.)

XXVI.—EVIDENCE.

14 & 15 VICT., CAP. 99.

An Act to amend the Law of Evidence.

[7th August, 1851.]

EXTRACTS.

"6. Whenever any Action or other legal Proceeding shall henceforth be pending in any of the Superior Courts of Common Law at *Westminster* or *Dublin*, or the Court of Common Pleas for the County Palatine of *Lancaster*, or the Court of Pleas for the County of *Durham*, such Court and each of the Judges thereof may respectively, on Application made for such Purpose by either of the Litigants, compel the opposite Party to allow the Party making the Application to inspect all Documents in the Custody or under the Control of such opposite Party relating to such Action or other legal Proceeding, and, if necessary, to take examined Copies of the same or to procure the same to be duly stamped, in all Cases in which previous to the passing of this Act a Discovery might have been obtained by filing a Bill or by any other Proceeding in a Court of Equity at the Instance of the Party so making Application as aforesaid to the said Court or Judge."

Common Law Courts authorized to compel Inspection of Documents whenever Equity would grant Discovery

"9. Every Document which by any Law now in force or hereafter to be in force is or shall be admissible* in Evidence of any Particular in any Court of Justice in *England* or *Wales* without Proof of the Seal or Stamp or Signature authenticating the same, or of the judicial or official Character of the Person appearing to have signed the same, shall be admitted in Evidence to the same Extent and for the same Purposes in any Court of Justice in *Ireland*, or before any Person having in *Ireland* by Law or by Consent of Parties Authority to hear, receive, and examine Evidence, without Proof of the Seal or Stamp or Signature authenticating the same, or of the judicial or official Character of the Person appearing to have signed the same.

Documents which are admissible without Proof of Seal, &c. in *England* or *Wales*, equally admissible in *Ireland*.

"10. Every Document which by any Law now in force or hereafter to be in force is or shall be admissible in Evidence

Documents admissible without

Proof of
Seal, &c.
in Ireland
equally
admissible
in England
and Wales.

of any Particular in any Court of Justice in *Ireland* without Proof of the Seal or Stamp or Signature authenticating the same, or of the judicial or official Character of the Person appearing to have signed the same, shall be admitted in Evidence to the same Extent and for the same Purposes in any Court of Justice in *England* or *Wales*, or before any Person having in *England* or *Wales* by Law or by Consent of Parties Authority to hear, receive, and examine Evidence, as that Proof of the Seal or Stamp or Signature authenticating the same, or of the judicial or official Character of the Person appearing to have signed the same.

Documents
admissible
without
Proof of
Seal, &c.
in England,
Wales, or
Ireland
equally
admissible
in the Colo-
nies.

"11. Every Document which by any Law now in force hereafter to be in force is or shall be admissible in Evidence of any Particular in any Court of Justice in *England* or *Ireland* without Proof of the Seal or Stamp or Signature authenticating the same, or of the judicial or official Character of the Person appearing to have signed the same, shall be admitted in Evidence to the same Extent and for the same Purposes in any Court of Justice of any of the *British Colonies* or before any Person having in any of such Colonies by Law or by Consent of Parties Authority to hear, receive and examine Evidence, without Proof of the Seal or Stamp or Signature authenticating the same, or of the judicial or official Character of the Person appearing to have signed the same."

Examined
or certified
Copy or
Extract of
any Docu-
ment
admissible
in Evidence,
without
Certification

"14. Whenever any Book or other Document is of such a public Nature as to be admissible in Evidence on its Production from the Proper Custody, and no Statute now in force which renders its Contents provable by means of a Copy, or Copy thereof or Extract therefrom shall be admissible in Evidence in any Court of Justice, or before any Person now or hereafter living by Law or by Consent of Parties Authority to hear, receive, and examine Evidence, provided it be proved to be an examined Copy or Extract, or provided it purport to be signed and certified as a true Copy or Extract by the Officer to whose Custody the Original is intrusted; and which Officer is hereby required to furnish such certified Copy or Extract to any Person applying at a reasonable Time for the same upon Payment of a reasonable Sum for the same, not exceeding Fourpence for every Folio of Ninety Words.

copies to be
furnished on
payment.

Certifying
false Copy or
Extract, Mis-
demeanor.

"15. If any Officer authorized or required by this Act to furnish any certified Copies or Extracts shall wilfully certify

any Document as being a true Copy or Extract, knowing that he same is not a true Copy or Extract, as the Case may be, he shall be guilty of a Misdemeanor, and be liable, upon Conviction, to Imprisonment for any Term not exceeding Eighteen Months. Punishment.

"16. Every Court, Judge, Justice, Officer, Commissioner, Arbitrator, or other Person, now or hereafter having by Law or by Consent of Parties Authority to hear, receive, and examine Evidence, is hereby empowered to administer an Oath to all such Witnesses as are legally called before them respectively. Court, &c. may administer Oaths.

"17. If any Person shall forge the Seal, Stamp, or Signature of any Document in this Act mentioned or referred to, or shall tender in Evidence any such Document with a false or counterfeit Seal, Stamp, or Signature thereto, knowing the same to be false or counterfeit, he shall be guilty of Felony; and shall upon Conviction be liable to Transportation for Seven Years, or to Imprisonment for any Term not exceeding Three Years nor less than One Year, with Hard Labour: and whenever any such Document shall have been admitted in Evidence by virtue of this Act, the Court or the Person who shall have admitted the same may, at the Request of any Party against whom the same is so admitted in Evidence, direct that the same shall be impounded and be kept in the Custody of some Officer of the Court or other proper Person, for such Period and subject to such Conditions as to the said Court or Person shall seem meet; and every Person who shall be charged with committing any Felony under this Act, or under the Act of the Eighth and Ninth Years of Her present Majesty, Chapter One hundred and thirteen*, may be dealt with, indicted, tried, and, if convicted, sentenced, and his Offence may be laid and charged to have been committed, in the County, District, or Place in which he shall be apprehended or be in Custody; and every Accessory before or after the Fact to any such Offence may be dealt with, indicted, tried, and, if convicted, sentenced, and his Offence laid and charged to have been committed, in any County, District, or Place in which the principal Offender may be tried. Forging Seal, Stamp, or Signature, or tendering same, Felony: Punishment. Documents may be impounded. Procedure.

"18. This Act shall not extend to Scotland."

Scotland exempted.

XXVII.—PRESERVATION OF THE PEACE DURING
CONSTRUCTION OF WORKS.

1 & 2 VICT., CAP. 80.

An Act for the Payment of Constables for keeping the Peace
near Public Works.

[10th August, 1838.]

WHEREAS great Mischiefs have arisen by the outrageous and
unlawful Behaviour of Labourers and others employed on
Railroads, Canals, and other Public Works, by reason whereof
the Appointment of Special Constables is often necessary for
keeping the Peace, and for the Protection of the Inhabitants
and Security of the Property in the Neighbourhood of such
Public Works, whereby great Expenses have been cast on
the Public Rates of Counties and other Districts charged
with such Expenses: Be it therefore enacted, That after
the passing of this Act, wherever any Special Constables
shall be appointed under the Authority of an Act passed in
the Second Year of the Reign of His late Majesty, intitled
*An Act for amending the Laws relative to the Appointment of
Special Constables*, and for the better Preservation of the Peace,
or under the Authority of an Act passed in the Sixth Year
of the Reign of His late Majesty, intitled *An Act for re-
forming the Powers of Magistrates in the Appointment of Special
Constables*, and it shall be made to appear to any Two or three
Justices of the Peace of any County, Riding, or District
having a separate Commission of the Peace, or of any Town, or
Franchise, City, Town, or Borough, in *England* or *Wales*, on
the Oath of Three or more credible Witnesses, that the Ap-
pointment of such Special Constables has been occasioned by
the Behaviour, or by reasonable Apprehension of the Beha-

* The first of the three following acts relates to England and Wales only,
and was passed in 1833 under the circumstances described in the preamble;
the second and third of these acts relate to Ireland only. An act was
passed in 1845 for Scotland, 8 & 9 Vic. c. 3.

^b See note *, in p. 31.

^c 1 & 2 Wm. 4, c. 41.

^d 5 & 6 Wm. 4, c. 43.

riour, of the Persons employed upon any Railway, Canal, or other Public Work made or carried on under the Authority of Parliament, within the District or Division for which such Justices usually act, it shall be lawful for such Justices as aforesaid, at any Time not exceeding One Calendar Month next after such Appointment, to make Orders from Time to Time upon the Treasurer or other Officer who shall have the Control or Custody of the Funds of any Company making or carrying on such Railroad, Canal, or other Public Work, for the Payment of such reasonable Allowances for their Trouble, Loss of Time, and Expenses, to such Special Constables who shall have so served or be then serving, as to the said Justices shall seem proper; and a Copy of every such Order shall be sent by the Justices to One of Her Majesty's Principal Secretaries of State; and such Order, if allowed by the Secretary of State, shall be binding on such Company, and on every such Treasurer and Officer thereof: Provided always, that nothing herein contained shall empower any such Justice to order any Allowance for any such Special Constables, at the Rate of more than Five Shillings daily to be paid to each Special Constable employed for the Purposes aforesaid.

under orders
of Justices;

subject to
approval by
Secretary of
State.

Maximum
allowance.

2...If it shall appear to the Secretary of State that there was no Need for the Appointment of such Special Constables, or that a greater Number of Special Constables was appointed than was needed by reason of the Behaviour, or reasonable Apprehension of the Behaviour, of the Persons employed on such Railroad, Canal, or other Public Work as aforesaid, the Secretary of State shall have Power to disallow any such Order, or to reduce the Amount ordered to be paid by any such Order, in such Manner as to him shall seem just, according to the Circumstances of each Case; and in such Case, the Order shall be of no force, or shall be of force for such reduced Amount only, as the Case may be; and the whole of such Expenses in case the Whole shall be disallowed, or so much thereof as shall exceed such reduced Amount if a Part shall be allowed, shall be defrayed out of the Public Rates of such County, Riding, or Division, Liberty, Franchise, City, Town, or Borough, as if this Act had not been made.

Secretary of
State may
disallow
Orders, or
reduce
Amounts.

Payment of
whole or
part, in such
cases, out of
local rates.

3...In all Cases where such Treasurer or other Officer as aforesaid shall refuse or neglect, during Three Weeks next after Demand thereof, to pay such Sum of Money as shall have

Amount
ordered and
allowed may
be recovered

from Com-
pany by
Distress.

been ordered by such Justices, and allowed by the Secretary of State as aforesaid, it shall be lawful for such Justices to cause the same to be levied by Distress upon the Goods and Chattels belonging to such Company.

XXVIII.—PEACE PRESERVATION.

8 & 9 VICT., CAP. 46.

An Act for the Appointment of additional Constables for keeping the Peace near Public Works in *Ireland*.

[21st July, 1845.]

In Ireland,
on applica-
tion of Com-
pany or two
Justices, ad-
ditional Con-
stables may
be appointed
by Lord
Lieutenant
to keep the
Peace near
Railway
Works, &c.

WHEREAS it is expedient to provide for the Appointment and Payment of additional Head and other Constables for keeping the Peace, and for the Protection of the Inhabitants and the Security of Property, in the Neighbourhood of Railway Works and other Public Works in *Ireland*: Be it therefore enacted*...That from and after the passing of this Act, in any Case in which the Works of any Railway, Canal, or other Public Work of a similar Nature, shall be in progress of Construction in *Ireland*, upon the Application of the Company or other Parties carrying on any such Public Work, or upon the Application of Two or more Justices of the Peace of the County acting in the Petty Sessions of the District in or through which any such Public Work may be in the Course of Construction, to whom it shall be made appear, on the Oath of Two or more credible Witnesses, that the Appointment of additional Constables for the keeping of the Peace, and for the Protection of the Inhabitants, and the Security of Property, in the Neighbourhood of such Works, is necessary in consequence of the Behaviour or reasonable Apprehension of the Behaviour of the Persons employed in the said Works, it shall be lawful for the Lord Lieutenant or other Chief Governor or Governors of Ireland, if he or they shall so think fit,

* See note * in p. 1.

from Time to Time to order and direct that, in addition to the Number of Head and other Constables whom the said Lord Lieutenant or other Chief Governor or Governors of Ireland is or are authorized to appoint by virtue of an Act passed in the Sixth Year of the Reign of His late Majesty, ^{s. 4 & 7 W. 4. c. 12.} intituled *An Act to consolidate the Laws relating to the Constabulary Force in Ireland*, and the other Acts amending the same, such Number of Head and other Constables as he or they shall think fit, not exceeding in any Case the Number specified in any such Application as aforesaid, shall be appointed and employed during the Construction of such Public Works, in aid of and in conjunction with the said Constabulary Force in such County, County of a City, County of a Town, or Place, near to the said Public Works so in progress of Construction, as shall be mentioned in the said Order; and shall remain there for such Length of Time, or remove to or remain at such other Place or Places near to such Public Works for such Time or Times, as shall be mentioned or directed by such Order, or any other Order or Orders which may from Time to Time be made by such Lord Lieutenant or other Chief Governor or Governors, or by the Inspector General of the said Constabulary Force, under the Control and Directions of the said Lord Lieutenant or other Chief Governor or Governors; and such Constables may in like Manner, by any such Order, be reduced in Number, or wholly removed from the Neighbourhood of such Works; and the Head and other Constables so appointed shall, during the Period of such Employment, have the same Amount of Pay and Allowances, and the same Rights, Powers and Authorities, Privileges and Advantages, and be subject to the same Provisions and Enactments, Rules, Regulations, and Orders, and be in all respects in the same Situation in the County, County of a City, or County of a Town in which they shall be stationed, as far as the Circumstances of the Case will admit, as if they had been appointed to and formed Part of the Constabulary Force established in and for such County, County of a City, or County of a Town*.

Number and Length of Service, &c. of such extra Constables.

Pay and Allowances.

2...The Inspector General of the said Constabulary Force, ^{Expense of additional}

* See further, in 11 & 12 Vic. c. 72, § 7, as to pay of such special force, and how chargeable (XXIX. 7, p. 337-8.)

Constables to
be paid by
the Com-
panies:

mode of as-
certaining
and certify-
ing same.

Proceedings
for enforcing
payment, in
case of re-
fusal or
neglect of
Company for
14 days.

Recoverable
by action of
debt;

or before two
Justices:

by Distress
of Company's
Goods.

with the Assistance of the Receiver of the said Force shall from Time to Time, or as often as he shall think convenient, prepare and certify under his Hand a detailed Account of the Expense incurred for the Pay, Salary, Clothing and Equipment, Lodging, and other Allowances of such Men so appointed and employed as aforesaid; which Expense, when approved and certified by the Chief or Under Secretary of such Lord Lieutenant or other Chief Governor or Governors, the said Company or Parties, or their Agent, shall, upon demand, pay to the said Receiver, to be placed to the Credit of the County, County of a City, or County of a Town in which such Constables as aforesaid shall have been so employed.

3...In all Cases where the Company or other Parties carrying on such Public Work shall refuse or neglect, during Fourteen Days next after Demand thereof, to pay any such Expense, or any Part thereof, as shall have been so certified and approved as aforesaid, the same shall and may be sued for in any of the Superior Courts, at the Suit of Her Majesty's Attorney General for *Ireland*, as a Debt due to Her Majesty; or, upon Production of such Account, so certified and approved, before any Two Justices of the County, County of a City, or County of a Town in which such Constables shall have been so employed as aforesaid; and upon Proof on Oath of such Demand made as aforesaid of such Company or Parties, or any Officer superintending such Public Works, and upon the Application of the said Receiver of the Constabulary Force, or any Person by him authorized in Writing, it shall be lawful for such Justices, by their Warrant under their Hands and Seals (which they are hereby authorized and required to grant), to cause the Amount of such Account to be levied, together with the Expenses of levying the same, by Distress and Sale of the Goods and Chattels of the Company or other Parties carrying on such Public Works as aforesaid; and the Surplus, if any, arising from such Distress and Sale, after deducting the Amount of such Account, together with the reasonable Expenses attendant on such Distress and Sale, shall be rendered to the said Company or Parties.

XXIX.—POLICE FOR RAILWAY WORKS, IRELAND.

11 & 12 VICT., CAP. 72.

An Act to amend the Acts relating to the Constabulary Force in *Ireland*, and to amend the Provisions for the Payment of Special Constables.

[31st August, 1848.]

EXTRACTS.

“§ 4. And whereas it is expedient to fix and determine the Sum to be charged upon each County, or any Part or District thereof, or any County of a City or County of a Town in *Ireland*, in all Cases where, by the Laws now in force, One Moiety of the Costs and Expenses of any Constabulary Force is chargeable thereupon respectively, and also the Sum to be charged upon any Borough for which a Constabulary Force shall be appointed in compliance with a Memorial from the Town Council of such Borough, in pursuance of an Act of the Third and Fourth Years of the Reign of Her present Majesty, intituled *An Act for the Regulation of Municipal Corporations in Ireland*”; be it enacted, That from and after the Thirty-first Day of *March* One thousand eight hundred and forty-eight, in all such Cases as aforesaid there shall be chargeable to each such County, County of a City, County of a Town, or Borough, *per Annum*, for each Sub-Inspector One Moiety of the Sum of One hundred and sixty Pounds, for each Head Constable One Moiety of the Sum of Seventy Pounds, and for each Constable or Sub-Constable One Moiety of the Sum of Thirty-five Pounds Two Shillings and Sixpence; and so in proportion for every fractional Part of a Year.”

Rate of Charge for Constabulary in Ireland.

“§ 7. And whereas by an Act of the Eighth and Ninth Years of Her present Majesty’s Reign, intituled *An Act for the Appointment of additional Constables for keeping the Peace*

Scale of Charge where Constables are chargeable to Railway Company, &c.

near Public Works in Ireland^a, Provision is made for the Appointment and Payment of additional Head and other Constables for keeping the Peace in certain Cases in the Neighbourhood of Railway Works or other public Works in *Ireland*; be it enacted, That whenever such additional Head or other Constables shall have been or shall be appointed and employed for the Purposes and under the Provisions of the said last-re-cited Act^a, the Company or other Parties carrying on such Railway or other public Works shall be chargeable for the Expense of such Head and other Constables as in the said Act provided, but according to the Proportion of Head and other Constables herein-before provided^b, and also according to the Scale of Charge herein-before provided for Head and other Constables^c, save that such Company or Parties shall be chargeable for the whole and not for the Moiety only of such respective Rates of Charge."

XXX.—COMPENSATION FOR ACCIDENTS.

9 & 10 VICT., CAP. 93.

An Act for compensating the Families of Persons killed by Accidents.

[26th August, 1846.]

WHEREAS no Action at Law is now maintainable against a Person who by his wrongful Act, Neglect, or Default may have caused the Death of another Person, and it is oftentimes right and expedient that the Wrongdoer in such Case should be answerable in Damages for the Injury so caused by him: Be it therefore enacted^d...That whensoever the Death of a Person shall be caused by wrongful Act, Neglect, or Default,

Action for damages maintainable against Party causing Death through Neglect, &c., although amounting to Felony.

^a 8 & 9 Vic. c. 46, § 1, 2 (XXVIII. 1, 2, p. 335-6.)

^b Namely, "One Sub-Inspector for every Fifty Constables and Sub-Constables, and One Head Constable for every Twenty-five Constables and Sub-Constables," (§ 5); being the proportion authorized to be appointed by the Lord Lieutenant in such cases.

^c § 4 (p. 337.)

^d See note ^a in p. 1.

and the Act, Neglect, or Default is such as would (if Death had not ensued) have entitled the Party injured to maintain an Action and recover Damages in respect thereof, then and in every such Case the Person* who would have been liable if Death had not ensued shall be liable to an Action for Damages, notwithstanding the Death of the Person injured, and although the Death shall have been caused under such Circumstances as amount in Law to Felony.

2. Every such Action shall be for the Benefit of the Wife, Husband, Parent^b, and Child^c of the Person whose Death shall have been so caused, and shall be brought by and in the Name of the Executor or Administrator of the Person deceased; and in every such Action, the Jury may give such Damages as they may think proportioned to the Injury resulting from such Death to the Parties respectively for whom and for whose Benefit such Action shall be brought; and the Amount so recovered, after deducting the Costs not recovered from the Defendant, shall be divided amongst the before-mentioned Parties in such Shares as the Jury by their Verdict shall find and direct.

Regulation
of such
Actions, and
of Damages:

and partition
of Damages
by Jury.

3. Provided always, and be it enacted, That not more than One Action shall lie for and in respect of the same Subject Matter of Complaint; and that every such Action shall be commenced within Twelve Calendar Months after the Death of such deceased Person.

Only One
Action shall
lie, and
within 12
Months.

4. In every such Action, the Plaintiff on the Record shall be required, together with the Declaration, to deliver to the Defendant or his Attorney a full Particular of the Person or Persons for whom and on whose Behalf such Action shall be brought, and of the Nature of the Claim in respect of which Damages shall be sought to be recovered.

Plaintiff to
deliver full
Particulars
of Claimant
and nature of
Claim.

5. The following Words and Expressions are intended to have the Meanings hereby assigned to them respectively, so far as such Meanings are not excluded by the Context or by the Nature of the Subject Matter; that is to say, Words denoting the Singular Number are to be understood to apply also to a Plurality of Persons or Things, and Words denoting

Interpreta-
tion:

Number;

* "Person," includes Corporations; § 5, (p. 340.)

^b "Parent;" see interpretation § 5, (p. 340.)

^c "Child;" see interpretation, § 5, (p. 340.)

Gender; the Masculine Gender are to be understood to apply also to
 "Person;" Persons of the Feminine Gender; and the Word "Person"
 shall apply to Bodies Politic and Corporate; and the Word
 "Parent;" "Parent" shall include Father and Mother, and Grandfather
 and Grandmother, and Stepfather and Stepmother; and the
 "Child." Word "Child" shall include Son and Daughter, and Grandson
 and Granddaughter, and Stepson and Stepdaughter.

Commence- 6...This Act shall come into operation from and imme-
 ment: diately after the passing thereof; and nothing therein con-
 Scotland ex- tained shall apply to that Part of the United Kingdom called
 cepted. *Scotland.*

XXXI.—CLEARING HOUSE.

13 & 14 VICT., CAP. xxxiii^a.

An Act for regulating legal Proceedings by or against the
 Committee of Railway Companies associated under the
 Railway Clearing System, and for other Purposes.

[25th June, 1850.]

WHEREAS, for some Time past, Arrangements have subsisted
 between several Railway Companies for the Transmission
 without Interruption of the through Traffic in Passengers,
 Animals, Minerals, and Goods passing over different Lines of
 Railway, for the Purpose of affording, in respect to such
 Passengers, Animals, Minerals and Goods, the same or the like
 Facilities as if such Lines had belonged to One Company;
 which Arrangements are commonly known as and in this Act
 are designated as "the Clearing System," and which Ar-
 rangements are conducted under the Superintendence of a
 Committee appointed by the Boards of Directors of such several
 Railway Companies, which Committee is in this Act de-
 signated "the Committee;" and the Business of such Com-
 mittee has heretofore been and is now carried on at a Building
 appropriated for the Purpose in *Seymour Street*, adjoining the

^a A special or private act, classed amongst the "Local and Personal Acts."

Euston Station of the London and North-western Railway Company: And whereas the Clearing System has been productive of great Convenience to the Public, and of a considerable Saving of Expense in the Transmission of Passengers, Animals, Minerals, and Goods over the Lines of the several Railway Companies Parties to such Association; but considerable Difficulty has been experienced in carrying into effect the Objects of the Association, in consequence of the Committee not possessing the Power of prosecuting or defending Actions or Suits, or taking other legal Proceedings: And whereas *George Carr Glynn*, Esquire, is the present Chairman, and *Kenneth Morison* is the present Secretary, of the Committee: And whereas the Purposes aforesaid cannot be effected without the Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted^a . . . That the several Companies which at the Time of the passing of this Act are Parties to the Clearing System^b, and every other Company which shall in manner hereafter mentioned become Party^c to the same, shall be subject to the Provisions of this Act^d.

Companies already Parties to the Clearing System, to be subject to the Provisions of this Act.

2. . . If any Company which may not be a Party to the Clearing System shall, by Writing sealed with the Common Seal of such Company, request the Committee to admit such Company to be a Party to the Clearing System, and the Committee shall assent to such Request, such Company shall from the Time of such Assent being given, or at such other Time as may be specified in the said Request, become a Party to the Clearing System.

Other Companies may join, with Assent of Committee.

3. . . If any Company shall, by Writing sealed with the Common Seal of such Company, give Notice to the Committee, of the Desire of such Company to cease to be a Party to the Clearing System, such Company shall, at the Expiration of One Calendar Month from the Time when such Notice shall be given, or if a more distant Time shall be stated in such Notice then at the Time so stated, cease to be a Party to the Clearing System.

Companies may retire, on giving Notice of not less than One Month.

^a See note * in p. 1.

^b See observations and List of Companies associated in Clearing House, in Introduction.

^c § 2.

^d Companies who are or become Parties in the Clearing System, may nevertheless cease to be so, in the ways provided in § 3 & 4.

Committee may cause Company to retire, after Notice of not less than One Month.

Each Company to appoint a Member of the Committee :

but acts of Committee valid, altho' a Company be unrepresented.

Meetings of the Committee, quarterly :

and special meetings on notice ;

Time and place of meeting ;

Quorum, ten ;

Majority of Votes present, binding ;

casting vote to Chairman ;

Notice of business to be considered.

4... If not less than Two Thirds of the Committee present at a Meeting specially summoned shall, by Writing signed by their Secretary or by Two Members of the Committee, give Notice to any Company that such Company shall cease to be a Party to the Clearing System at a Time named in such Notice, not being less than One Calendar Month from the Time of giving such Notice, such Company shall at the Time so named cease to be a Party to the Clearing System.

5... Each Company, Party to the Clearing System, shall at all Times be entitled to be represented on the Committee by One Delegate appointed by the Board of Directors of such Company from Time to Time, such Appointment to be certified in Writing by the Secretary or any Two Directors of such Company : Provided always, that, notwithstanding any Company may happen to be unrepresented by a Delegate at a Meeting, the Acts of the Committee shall be valid.

6... The Committee shall meet at One of the Clock in the Afternoon of the Second *Wednesday* in the Months of *March*, *June*, *September*, and *December* in every Year, or so soon thereafter as a Quorum shall be assembled, and at any other Times whereof the Secretary shall, at the written Request of the Chairman for the Time being, or any Two Members of the Committee, give at least Ten Days Notice in Writing to every Company, Party to the Clearing System, or the Secretary of every such Company ; and every such Meeting may be adjourned from Time to Time, and from Place to Place, as the Committee shall think proper ; and Meetings and adjourned Meetings of the Committee shall be held at the said Building in *Seymour Street*, except when the Committee shall have appointed some other Place, and then at such other Place ; and in order to constitute a Meeting of the Committee there shall be present at least Ten Members ; and, except where otherwise provided, all Questions at every Meeting shall be determined by the Majority of Votes of the Committee present ; and in case of an equal Division of Votes, the Chairman of the Meeting shall have a casting Vote, in addition to his Vote as One of the Committee ; and Notice of the Business to be brought before any Meeting shall, at least Six Days before the Day of such Meeting, be given to every Company, Party to the Clearing System, or the Secretary of every such Company.

- 7... Until the First Meeting of the Committee which shall be held after the passing of this Act, the said *George Carr Glyn*, or other the Chairman of the Committee for the Time being, shall continue in Office; and at the First Meeting of the Committee which shall be held after the passing of this Act, and in the Month of *March* in each succeeding Year, the Committee present at the Meeting shall, if they think fit, either continue in Office the Chairman for the Time being, or choose another Chairman; and a General Meeting of the Committee specially summoned shall have Power to remove any Chairman; and if any Chairman shall die, or resign, or be removed, the Committee shall have Power, as soon as may be, to choose some other Person to fill the Vacancy thereby occasioned; but every Chairman elected to supply a Vacancy other than at a General Meeting in the Month of *March* in any Year shall continue in Office so long only as the Person in whose Place he shall be so elected would have been entitled to continue if such Death, Resignation, or Removal had not happened: Provided always, that it shall not be necessary that the Person chosen as Chairman be a Delegate of any of the Companies Parties to the Clearing System; but in case he shall not be a Delegate he shall not be entitled to vote on any Question, unless in the Case of an Equality of Votes, when he shall be entitled to give the Casting Vote.
- 8... If at any Meeting of the Committee the Chairman shall not be present, the Committee present shall choose One of their Members to be Chairman of such Meeting.
- 9... The said *Kenneth Moriam* shall be the Secretary to the Committee until he die, or resign, or be removed; and the Committee shall have the Power to remove him and all future Secretaries; and in the event of the Resignation, or Death, or such Removal as aforesaid of any Secretary, the Committee shall appoint a Secretary to the Committee.
- 10... The Committee may from Time to Time appoint a Treasurer, and remove such Treasurer from his Appointment, and prescribe and alter the Duties of the Office of Treasurer, and take from the Treasurer such Security as they shall think fit, which Security may be taken in the Name or Names of such Person or Persons as the Committee approve of.
- 11... Any Money which shall be received by the Committee shall be held by the Committee as Trustees for the Company
- Appointment of Chairman;
- Annually in March:
- Removal of Chairman.
- Vacancy in office of Chairman.
- Chairman not necessarily a Delegate of associated Companies; voting in such case.
- In absence of Chairman, Committee to elect.
- Appointment of Secretary; and Removal.
- Appointment of Treasurer; Duties; Security.
- Money received by Committee:

Trust and liability.

or Companies to whom the Committee shall decide such Money to be payable ; but no Member of the said Committee shall be answerable for any such Money as may be lost or withheld by reason of the Misconduct, Default, or Insolvency of the Treasurer, or of any Banker or Agent in whose Hands the same may be, or by reason of any Cause other than the personal Misconduct of such Member.

Accounts, how to be settled ; in case of dispute, Balances ascertained and declared by the Committee, final and a Debt.

12...The Accounts of the Clearing System, and the Balances due to and from the several Companies, Parties thereto, shall be settled and adjusted by the Secretary of the Committee for the Time being ; which Secretary shall also settle and determine the Amount to be from Time to Time contributed to the Funds of the Clearing System by the Companies Parties thereto ; and in case of any Difference respecting such Accounts, the Decision of the Committee to the Effect that any Balance or Sum is payable by any Company then or theretofore Party to the Clearing System, shall be final and conclusive ; and such Sum or Balance shall be a Debt due to the said Committee.

Expenses to be paid out of the Funds of the Clearing System.

13... The Committee shall, out of the Funds of the Clearing System, pay all the Expenses of the Clearing System, and all Costs, Charges, Damages, and Expenses which the Members of the Committee, or any or either of them, shall as such Members or Member, or which the Secretary as nominal Plaintiff or Defendant, or other Party, on behalf of the Committee, bear, sustain, or be put to ; and the Members of the Committee and Secretary shall be completely indemnified and saved harmless out of the Funds of the Clearing System, and by the Companies Parties to the Clearing System, of, from, and against all Action and Actions, Suit and Suits, Proceeding and Proceedings, of any Sort, Costs, Charges, Damages, and Expenses, to which they or any or either of them may in any way be subjected, as Members or Member of the Committee, by reason of anything which they or he may *bond fide* do or omit to do, whether such Deed or Omission be within their Powers or not.

Committee may sue for Balances or Sums due.

14...The Committee may, by Action of Debt in the Name of their Secretary, recover from any Company any Balance or Sum which such Committee shall decide to be payable by such Company, whether to any other Company or on account of the Clearing System, and whether such Company be still at

14. Time of such Decision or has then ceased to be a Party to the Clearing System, and whether such Sum or Balance shall or shall not have been previously ascertained by the Secretary to be payable.

15. The Declaration for the Recovery of such Sum or Balance may be in the Form or to the Effect of the Form given in the Schedule (A.) to this Act annexed^a; and the Directions contained in the said Schedule for the Use of the same shall be taken as Part of this Act.

Form of
Action for
the Recovery
of such
Balance or
Sum.

16. If the Defendants in such Action shall plead that they never were indebted, then, on Proof that the Committee decided the Sum in question to be payable by the Defendants, and that the Defendants were either at the Time of such Decision or at some previous Time a Party to the Clearing System, and in the latter Case upon further Proof that such Sum was decided to be payable in respect of some Transactions, Matters, or Expenses which happened or were sustained whilst the Defendants were Parties to the Clearing System, the Plaintiff shall be entitled to a Verdict on that Plea.

Evidence.

17. The Defendants in such Action may plead any Matter Plea showing that they have since the Time of the Decision discharged the Sum or Balance so decided to be payable, and shall not plead any Plea with a Plea denying the Plaintiff to the Secretary.

18. The Committee shall cause Notes, Minutes, or Copies, in the case may require, of all Appointments made or Contracts entered into by them, and of the Orders and Proceedings of all their Meetings, to be duly entered in Books to be kept by them for that Purpose; and every such Entry shall be signed by the Chairman of the Meeting at which such Appointments, Contracts, Orders, or Proceedings respectively took place, who shall add the Word "Chairman" to his Signature, and which Entries may be made and signed either at or after the Meetings to which they respectively relate; and every Entry purporting to be so signed shall be received as Evidence in all Courts, and before all Judges, Justices, and others, without Proof of such respective Meetings having been duly convened or held, or of the Persons making or entering such Orders or Proceedings being Members of the Committee, or of the Sig-

Entries in
Books:
Appoint-
ments, Con-
tracts, Pro-
ceedings,
how to be
authenticated.

Evidence.

^a Page 348. Though called Schedule " (A)," there is but one Schedule annexed to the act.

nature of such Chairman, or of the Fact of his having been Chairman, all which last-mentioned Matters shall be presumed, till the contrary be proved.

Books of the Committee to be *prima facie* Evidence, and the Committee and Secretary to be competent Witnesses.

19...On the Trial of any such Action, after it is proved to the Satisfaction of the Court or Judge trying the Cause that such Company is or had once been such a Party, the Books kept by the Committee shall be *prima facie* Evidence of the Truth of the Matters therein stated and contained; and the Secretary, although the nominal Plaintiff, and the Members of the Committee, shall be competent Witnesses, either for the Plaintiff or for the Defendants.

Committee may sue or be sued in the Name of their Secretary.

20...The Committee may in all Cases sue and be sued in the Name of the Secretary to the Committee; and in all Proceedings at Law and in Equity, and in Bankruptcy, or of any other Sort, whether civil or criminal, the Name of the Secretary may be used instead of the Names of the Members of the Committee; and Proofs, in Cases of Bankruptcy, Insolvency, or in Winding-up Affairs, may be made by the Secretary for the Committee.

In Criminal Proceedings Property of Committee or in their Custody, to be deemed the Property of Secretary.

21...In any Indictment or Information for any Felony or Misdemeanor, wherein it shall be necessary to state the Ownership of any Property whatsoever, whether Real or Personal, and the same shall either belong to the Committee or be in their Custody, or in the Custody or Possession of any Officer, Clerk, or Servant of the Committee, or of any Person employed for the Purpose or in the Capacity of Clerk or Servant by the Committee, or in or on any Building or Land used for the Purposes of the Clearing System, or shall be used or intended to be used for the Purposes of the Clearing System, it shall be sufficient to state such Property to belong to the Secretary of the Committee.

Criminal Proceedings for Embezzlement to be prosecuted in Name of Secretary.

22...In any Indictment for Embezzlement, wherein it shall be necessary to state the Party charged with the Embezzlement to have been the Clerk or Servant of some Master or Masters, or to have been employed for the Purpose or in the Capacity of Clerk or Servant by some Master or Masters, and such Masters shall have been the Committee, it shall be sufficient in such Indictment to name the Secretary of the Committee in every Place in such Indictment where the Names of the Members of the Committee would but for this Enactment be required to be inserted.

23...Every Notice or Requisition on the Business of the Clearing System, or given pursuant to this Act, shall be sufficient if it be in Writing signed by the Secretary of the Committee, or Secretary or other Officer of the Company giving the same, and if it be sent by the General Post addressed to the Secretary of the Company for whom the same is intended, in case such Notice or Requisition be intended for any Company, or to the Secretary at the principal Office of the Clearing System, in case such Notice or Requisition be intended for the Committee; and Proof of such Notice or Requisition being deposited in any public Letter Box or Receiving House for Letters intended to be forwarded by the General Post, shall be deemed Proof of the due Service of such Notice or Requisition; and Notices or Requisitions for each Member of the Committee shall be sufficient if sent in manner aforesaid, addressed to him at the principal Office of the Company whom he represents.

Service of
Notices, &c.

24...In all Pleadings or Proceedings, civil or criminal, when it shall be required to mention all the Companies Parties to the Clearing System, or the Committee, it shall be sufficient to mention the Companies by the Description of "The Companies Parties to the Clearing System mentioned in the Railway Clearing Act, 1850," and to describe the Committee by the Description of "The Clearing Committee mentioned in the Railway Clearing Act, 1850," without stating the Names of the individual Companies and Members.

Companies
and Com-
mittee, how
to be de-
scribed in
legal Pro-
ceedings.

25...In all Cases where the Name of the Secretary to the Committee shall be used under the Authority of this Act, it shall be sufficient to name and describe him, and to state the Authority for using his Name, as in the Form of Declaration in Schedule (A)*.

Description
of Secretary
in legal
Proceedings.

26...Upon the Death or Removal of any Secretary, no Action or Suit or other Proceeding pending in his Name, as Plaintiff or Defendant or otherwise, either on behalf of or against the Committee, shall abate or be stayed; but as soon as another Secretary shall be appointed, the Name of such new Secretary shall be therein-after used; and in an Action at Law such Name shall, whether it be before or after Judgment, be introduced by Suggestion, to which no Plea or

Actions, &c.
not to abate
on Death or
Removal of
Secretary.

Demurrer shall be allowed ; and the Omission to make such Suggestion, and an erroneous Suggestion, shall be mere Irregularities, and shall, on the Application of the Committee or of the Party opposed to the Committee, be rectified, but shall not otherwise be taken advantage of.

Expenses of
Act.

27...All the Costs, Charges, and Expenses of obtaining and passing this Act, or incident thereto, shall be paid by the said Committee out of the first Monies which shall come to their Hands after the passing of this Act.

Short Title:
Public Act.

28...This Act may be called "The Railway Clearing Act, 1850," and shall be deemed to be a Public Act, and as such shall be judicially noticed.

SCHEDULE A.^a

{ [A.B.,] Secretary to the Clearing Committee, and now
to wit. { named by virtue of the Railway Clearing Act, 1850, by
[C.D.] his Attorney, complains of [X.Y.,] who have been summoned
to answer the said [A.B.] in an Action of Debt, for that the Clearing
Committee have decided that the Sum of [£100] is payable by the
Defendants. as Parties to the Clearing System, by means whereof an
Action has accrued to the said Committee to demand in the Name of
their Secretary the said Sum of [£100,] yet the Defendants have not
paid the same, to the Damage of the said Committee of [£10,] and
thereupon the Plaintiff, by virtue of the said Act, brings Suit.

Directions for using the above Form.^b

Substitute for [A.B.] the Name of the Secretary, and for [C.D.] the Name of his Attorney, and for [X.Y.] the Name of the Company Defendant, and for the Sums such Sums as the Case may require, and add the Venue. Several Counts may be inserted on the above Model, where several Sums are sought to be recovered.

^a Form of Declaration for Recovery of Balances, &c., due from a Company; § 15 (p. 345): and § 25 (p. 347).

^b These directions are to be taken as part of the Act; see § 15 (p. 345).

OBSOLETE ACTS.

XXXII.—RAILWAY COMMISSIONERS.

9 & 10 Vict., CAP. 105.

An Act for constituting Commissioners of Railways^a.

[28th August, 1846.]

WHEREAS by an Act passed in the Fourth Year of the Reign of Her Majesty, intituled *An Act for regulating Railways*; and by another Act passed in the Sixth Year of the Reign of Her Majesty, intituled *An Act for the better Regulation of Railways, and for the Conveyance of Troops*; and by another Act passed in the Eighth Year of the Reign of Her Majesty, intituled *An Act to attach certain Conditions to the Construction of future Railways authorized or to be authorized by any Act of the present or succeeding Sessions of Parliament, and for other Purposes relating to Railways*; and by Two other Acts^b passed in the last Session of Parliament, for consolidating in One Act certain Provisions usually inserted in Acts authorizing the making of Railways, respectively, and by sundry Local Acts of Parliament, certain Powers with respect to Railways are vested in the Lords of the Committee of Her Majesty's Most Honourable Privy Council for Trade and Foreign Plantations; but it is expedient that a separate Department be constituted for these Purposes, and for other Purposes relating to Railways: Be it enacted^c... That it shall be lawful for Her Majesty, by Warrant under the Royal Sign Manual, to appoint any Number not more than Five Persons, to be Commissioners of Railways, and from Time to Time, at Her Pleasure, to re-

3 & 4 Vict.
c. 97, (p. 17.)5 & 6 Vict.
c. 25, (p. 26.)7 & 8 Vict.
c. 85, (p. 46.)8 & 9 Vict.
c. 20, (p. 121)
and c. 33^d.Her Majesty
empowered
to appoint
Commission-
ers of Rail-
ways, One of
whom to be
President;

^a It is thought that the following acts, the effect of which in some instances is not exhausted, ought not to be omitted, though their provisions have generally become obsolete as regards any future action.

^b This act has been repealed by 14 & 15 Vic., c. 64 (XIII. p. 214) by which Railways are again placed under the supervision of the Board of Trade; but without some of the powers conferred on the late Commissioners of Railways by this act of 1846.

^c The two acts here referred to are the Railway Clauses Consolidation Acts, 1845; 8 & 9 Vic. c. 20, for England and Ireland, (p. 121); and 8 & 9 Vic. c. 33, for Scotland; see observations as to Scotch acts, in Introduction.

^d See note ^a in p. 1.

and from
Time to Time
remove them.

move all or any of the said Commissioners, and to appoint others in their Stead ; and to appoint one of the said Commissioners to be their President; and any Two of the said Commissioners shall be competent to act in the Execution of the Powers vested in them by this Act ; and upon any Vacancy in the Number of the said Commissioners, it shall be lawful for the surviving or continuing Commissioners, not being less than Two, to act ; and their Acts shall be as valid as if no such Vacancy had occurred : and every such Appointment or new Appointment, and also the Day on which the said Commissioners shall begin to act in execution of this Act, shall be published in the *London Gazette*^a.

Power of
Board of
Trade trans-
ferred to
Commis-
sioners.

2...From and after the Day which shall be so specified in the *London Gazette*, as the Day on which the said Commissioners shall begin to act in execution of this Act, all the Powers, Rights, and Authority now vested in or exercised by the Lords of the Committee of Her Majesty's Privy Council for Trade and Foreign Plantations, by virtue of the recited Acts, or by any other Act of Parliament, or otherwise howsoever, with respect to any Railway or intended Railway, shall be transferred to and vested in and exercised by the Commissioners of Railways, as fully as if they had been named in the said several Acts of Parliament instead of the Lords of the said Committee ; and all Provisions of the said Acts shall be deemed to apply to the said Commissioners instead of the Lords of the said Committee ; and all Proceedings now pending before the Lords of the said Committee, or carried on under their Authority, shall be continued and carried on by and before the said Commissioners, who shall have and exercise the same Powers, Rights, and Authority in respect of all such Proceedings, as if they had been originally commenced before the said Commissioners.

An Office to
be provided,
under the
Direction of
the Treasury.

3...An Office shall be provided in *London* or *Westminster*, under the Directions of the Commissioners of Her Majesty's Treasury, for the Use of the Commissioners appointed under this Act, at or to which all Notices and other Documents shall be given or sent which are now by Law required to be given or sent at or to the Office of the Lords of the said Committee.

^a The Date of the Commissioners beginning to act, as published in the *London Gazette*, was 9th November, 1846. The act was repealed by 14 & 15 Vic. c. 64 (p. 214), from and after 10th October, 1851. The official existence of the Commissioners of Railways was therefore somewhat less than five years.

4...The Commissioners of Railways shall cause a Seal to be made for the Purposes of their Commission ; and all Orders and other Documents proceeding from the said Commissioners, and purporting to be sealed or stamped with the Seal of the said Commissioners, and signed by Two or more of the said Commissioners, shall be received as Evidence of the same respectively in all Courts and before all Justices and others, without any further Proof thereof.

Seal ; and Documents sealed by Commissioners to be Evidence.

5...The said Commissioners may appoint, and at their pleasure remove, a Secretary and so many other Officers and servants as to them, subject to the Approval of the Commissioners of Her Majesty's Treasury, shall appear necessary for carrying on the Business of the said Commission.

Commissioners to appoint a Secretary, Officers, &c., subject to Approval of Treasury.

6...The President and Two other Commissioners, and the Secretary, Officers, and Servants of the said Commissioners, shall be paid by such Salaries as shall be from Time to Time appointed by the Commissioners of Her Majesty's Treasury, not exceeding the Sum of Two thousand Pounds in the Case of the President, and the Sum of One thousand five hundred Pounds in the Case of either of the Two other paid Commissioners, and in the Case of the Secretary and other Officers and servants of the said Commission such fit Salaries as shall be from Time to Time appointed, with due Reference to their several Stations and the Duties they will have to perform.

Payment of Salaries to Commissioners, Officers, and Servants.

7...The Office of the said President shall not be deemed such an Office as shall render him incapable of being elected or of sitting or voting as a Member of the Commons House of Parliament, or as shall avoid his Election if returned, or render him liable to any Penalty for sitting or voting in Parliament.

President not disqualified to sit in Parliament.

8...The Office of any other of the said Commissioners who shall not be entitled to receive a Salary by reason of his Appointment to such Office, shall not be deemed such an Office as shall render him incapable of being elected or of sitting or voting as a Member of the Commons House of Parliament, or as shall avoid his Election if returned, or render him liable to any Penalty for so sitting or voting ; and if any such unpaid Commissioner shall be a Member of the House of Commons at the Time of his Appointment, his Acceptance of such Appointment shall not avoid his Election or vacate his Seat in Parliament ; and for the Purpose of distinguishing which Commis-

Unpaid Commissioners not disqualified to sit in Parliament.

Commissioners of Railways Act, 1846. [XXXII. § 1-3.

move all or any of the said Commissioners, and to appoint others in their Stead; and to appoint one of the said Commissioners to be their President; and any Two of the said Commissioners shall be competent to act in the Execution of the Powers vested in them by this Act; and upon any Vacancy in the Number of the said Commissioners, it shall be lawful for the surviving or continuing Commissioners, not being less than Two, to act; and their Acts shall be as valid as if no such Vacancy had occurred: and every such Appointment or new Appointment, and also the Day on which the said Commissioners shall begin to act in execution of this Act, shall be published in the *London Gazette*.

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sioners.

2...From and after the Day which shall be so specified in the *London Gazette*, as the Day on which the said Commissioners shall begin to act in execution of this Act, all the Powers, Rights, and Authority now vested in or exercised by the Lords of the Committee of Her Majesty's Privy Council for Trade and Foreign Plantations, by virtue of the recited Acts, or by any other Act of Parliament, or otherwise in soever, with respect to any Railway or intended Railway, be transferred to and vested in and exercised by the Commissioners of Railways, as fully as if they had been named in said several Acts of Parliament instead of the Lords of the Committee; and all Provisions of the said Acts shall be deemed to apply to the said Commissioners instead of the Lords of the said Committee; and all Proceedings now before the Lords of the said Committee, or carried on by their Authority, shall be continued and carried on before the said Commissioners, who shall have and exercise the same Powers, Rights, and Authority in respect of Proceedings, as if they had been originally commenced by the said Commissioners.

An Office to be provided, under the Direction of the Treasury.

3...An Office shall be provided in London or elsewhere under the Directions of the Commissioners of the Treasury, for the Use of the Commissioners appointed by this Act, at or to which all Notices and other Documents shall be given or sent which are now by Law required to be given or sent to the Office of the Lords of the Treasury.

^a The Date of the Commissioners beginning to act, as published in the *Gazette*, was 5th November, 1846. The act was repealed (p. 214). from and after 10th October, 1851. The Commissioners of Railways was therefore somewhat late.

and from
Time to Time
remove them.

move all or any of the said Commissioners, and to appoint others in their Stead ; and to appoint one of the said Commissioners to be their President ; and any Two of the said Commissioners shall be competent to act in the Execution of the Powers vested in them by this Act ; and upon any Vacancy in the Number of the said Commissioners, it shall be lawful for the surviving or continuing Commissioners, not being less than Two, to act ; and their Acts shall be as valid as if no such Vacancy had occurred : and every such Appointment or new Appointment, and also the Day on which the said Commissioners shall begin to act in execution of this Act, shall be published in the *London Gazette*^a.

Power of
Board of
Trade trans-
ferred to
Commis-
sioners.

2...From and after the Day which shall be so specified in the *London Gazette*, as the Day on which the said Commissioners shall begin to act in execution of this Act, all the Powers, Rights, and Authority now vested in or exercised by the Lords of the Committee of Her Majesty's Privy Council for Trade and Foreign Plantations, by virtue of the recited Acts, or by any other Act of Parliament, or otherwise howsoever, with respect to any Railway or intended Railway, shall be transferred to and vested in and exercised by the Commissioners of Railways, as fully as if they had been named in the said several Acts of Parliament instead of the Lords of the said Committee ; and all Provisions of the said Acts shall be deemed to apply to the said Commissioners instead of the Lords of the said Committee ; and all Proceedings now pending before the Lords of the said Committee, or carried on under their Authority, shall be continued and carried on by and before the said Commissioners, who shall have and exercise the same Powers, Rights, and Authority in respect of all such Proceedings, as if they had been originally commenced before the said Commissioners.

An Office to
be provided,
under the
Direction of
the Treasury.

3...An Office shall be provided in *London* or *Westminster*, under the Directions of the Commissioners of Her Majesty's Treasury, for the Use of the Commissioners appointed under this Act, at or to which all Notices and other Documents shall be given or sent which are now by Law required to be given or sent at or to the Office of the Lords of the said Committee.

^a The Date of the Commissioners beginning to act, as published in the *London Gazette*, was 9th November, 1846. The act was repealed by 14 & 15 Vic. c. 64 (p. 214), from and after 10th October, 1851. The official existence of the Commissioners of Railways was therefore somewhat less than five years.

4...The Commissioners of Railways shall cause a Seal to be made for the Purposes of their Commission ; and all Orders and other Documents proceeding from the said Commissioners, and purporting to be sealed or stamped with the Seal of the said Commissioners, and signed by Two or more of the said Commissioners, shall be received as Evidence of the same respectively in all Courts and before all Justices and others, without any further Proof thereof.

Seal ; and Documents sealed by Commissioners to be Evidence.

5...The said Commissioners may appoint, and at their Pleasure remove, a Secretary and so many other Officers and Servants as to them, subject to the Approval of the Commissioners of Her Majesty's Treasury, shall appear necessary for carrying on the Business of the said Commission.

Commissioners to appoint a Secretary, Officers, &c., subject to Approval of Treasury.

6...The President and Two other Commissioners, and the Secretary, Officers, and Servants of the said Commissioners, shall be paid by such Salaries as shall be from Time to Time appointed by the Commissioners of Her Majesty's Treasury, not exceeding the Sum of Two thousand Pounds in the Case of the President, and the Sum of One thousand five hundred Pounds in the Case of either of the Two other paid Commissioners, and in the Case of the Secretary and other Officers and Servants of the said Commission such fit Salaries as shall be from Time to Time appointed, with due Reference to their several Stations and the Duties they will have to perform.

Payment of Salaries to Commissioners, Officers, and Servants.

7...The Office of the said President shall not be deemed such an Office as shall render him incapable of being elected or of sitting or voting as a Member of the Commons House of Parliament, or as shall avoid his Election if returned, or render him liable to any Penalty for sitting or voting in Parliament.

President not disqualified to sit in Parliament.

8...The Office of any other of the said Commissioners who shall not be entitled to receive a Salary by reason of his Appointment to such Office, shall not be deemed such an Office as shall render him incapable of being elected or of sitting or voting as a Member of the Commons House of Parliament, or as shall avoid his Election if returned, or render him liable to any Penalty for so sitting or voting ; and if any such unpaid Commissioner shall be a Member of the House of Commons at the Time of his Appointment, his Acceptance of such Appointment shall not avoid his Election or vacate his Seat in Parliament ; and for the Purpose of distinguishing which Commis-

Unpaid Commissioners not disqualified to sit in Parliament.

sioners are qualified to sit in Parliament under this Act, the Warrant appointing any such Commissioner shall specify that he will not be entitled, by virtue of such Appointment, to receive any Salary or Remuneration whatsoever.

Commissioners to exercise Powers now vested in the Board of Trade.

9. And whereas, in some Cases, Railway Companies have exceeded the Powers given to them under the Acts constituting them, or have otherwise acted contrary to the Provisions of the said Acts, or of the General Acts for regulating Railways: Be it enacted, That it shall be the Duty of the said Commissioners to prevent any such unlawful Proceedings, by the Exercise of any Powers now vested in the Lords of the said Committee.

Commissioners to report to Her Majesty and both Houses of Parliament upon any Case specially referred to them.

10...It shall be the Duty of the said Commissioners to examine and report to Her Majesty and both Houses of Parliament upon any subject relating to any Railway, or proposed Railway, which shall be specially referred to them for their Opinion by Her Majesty, or by either House of Parliament; and in the Case of any Application to Parliament for any Act for making or maintaining any Railway, it shall be their Duty, if so directed by Her Majesty or by the Authority of either House of Parliament, to inquire and report, on local Inspection or otherwise,—

Firstly, Whether there are any Lines or Schemes competing with the proposed Railway :

Secondly, Whether by such Bill it is proposed to take Powers for uniting with such Railway, or proposed Railway, any other Railway or Canal, or to purchase or lease any Railway, Canal, Dock, Road, or other public Work, Undertaking, or Easement :

Thirdly, Whether by such Bill it is proposed to constitute any Branch Railway, or any other Work in connexion with the proposed Railway :

Fourthly, Whether any Plans, Maps, and Sections of any such proposed Railway which, pursuant to any Order of either House of Parliament, shall have been deposited in their Office, are correct ; and if not, in what Particulars and how far they are incorrect, and whether or not, in the Opinion of the Commissioners, such Errors as they shall find are material to the Object for which such Plans and Sections are required.

11...For the Purposes aforesaid, the said Commissioners shall be empowered, by themselves, or by such Inspectors as they shall appoint for that Purpose, to inspect and survey any proposed Line of Railway; and for the Purposes of any such survey they and their Inspectors shall have all the Powers which under an Act passed in the Fifth Year of the Reign of Her Majesty, intituled *An Act to authorize and facilitate the Completion of a Survey of Great Britain, Berwick-upon-Tweed, and the Isle of Man*^a, any Officers or Persons appointed by or acting under the Orders of the Master-General and Board of Ordnance have for the Purpose of making and carrying on any Survey authorized by the last-recited Act; and all the Provisions of the last-recited Act, in anywise relating to any such Survey, shall be deemed to apply, so far as they are applicable, to any Survey which may be directed by the said Commissioners under this Act; provided, that all Allowances and Payments made under this Act of the same Kind as those which by the last-recited Act are to be paid out of the Aids granted by Parliament to Her Majesty on account of the Board of Ordnance, and also all other Expenses incurred by the Commissioners in making such Survey and Inspection, shall be paid by the Provisional Committee or Directors or other Persons who shall be the Promoters of the said intended Railway; and in case of Nonpayment of the same in any Case, the Amount of such Allowances, Payments and Expenses shall be deemed a Specialty Debt due to Her Majesty from such Committee-men, Directors, and other Persons, and each of them severally, and shall be sued for and recovered accordingly.

Commissioners empowered to inspect and survey proposed Railways.

XXXIII.—COMPANIES DISSOLUTION.

9 & 10 VICT., CAP. 28.

An Act to facilitate the Dissolution of certain Railway Companies. [3rd July, 1846.]

WHEREAS it is expedient to facilitate the Dissolution of certain Railway Companies as hereafter mentioned, and to afford

Persons who shall have entered into a Contract for the Formation of a Company for making a Railway, &c. may dissolve the same pursuant to this Act.

Facilities for the winding up of the Concerns of such Companies: May it therefore please Your Majesty that it may be enacted, and be it enacted^a...That when any Persons or Companies, before the passing of this Act^b, shall have entered into any Contract usually called a Subscription Contract, or any other Agreement or Agreements, in Writing or otherwise, for the Formation of a Company or Partnership for making any Railway which cannot be carried into execution without obtaining the Authority of Parliament, and in respect of which an Act shall not before the passing of this Act have been obtained^b, it shall be lawful for such Persons or Companies to dissolve the said Company or Partnership, Contract or Agreement, in manner hereinafter mentioned; and that, whether or not such Contract or Agreement shall contain any Powers or Provisions for Dissolution of the Company or Partnership intended to be thereby formed: Provided nevertheless, that nothing herein contained shall prevent any such Persons or Companies from exercising any such Power or Provision for Dissolution in their Contract or Agreement contained, if they shall see fit, at any Time before availing themselves of the Powers in this Act contained: Provided also, that the Provisions of this Act shall be taken to apply to any Contract or Partnership for the making any Railway, notwithstanding that the Agreement or Partnership may relate to any other Objects in connexion therewith; and (unless a separate Capital and separate Subscription shall exist as regards the different Objects) then, on a Dissolution under the Provisions of this Act, the Dissolution shall extend to the whole Objects of the Contract or Partnership.

Committee. &c. may call Meetings of Shareholders to consider Dissolution. "Committee."

"Company."

2...It shall be lawful for the Committee, Provisional Directors, or other Persons by such Contract or Agreement as aforesaid intrusted with the Management and carrying into effect of the Undertaking, and who are herein-after called "the Committee," to call a Meeting of the Shareholders for the Purpose of determining whether the Partnership or Company so as aforesaid intended to be formed (and which is herein-after called "the Company") shall be dissolved; and if such Meeting shall determine, as after mentioned, that

^a See note ^a in p. 1.

^b The act applies only to Companies which had been formed before its passing, but which had not yet obtained an act.

the Company shall be dissolved, then, as from the Date of the Resolution come to at such Meeting, the Company shall be taken to be dissolved; and the Committee shall not have Power to proceed any further with the Undertaking.

3...It shall be lawful for any Five Shareholders, as after-defined, by Writing under their Hands, to require the Committee to call a Meeting for the Purpose aforesaid; and if the Committee shall refuse or neglect, for Six Days after any such Requisition shall have been left at the registered Place of Business of the Company, as regards *England and Ireland*, (and as regards *Scotland*, at the usual Place of Business,) or shall have been served personally on any Member of the Committee, to call such Meeting by Notice as after-mentioned, or if for any Reason whatever such Meeting shall not be convened and held in pursuance of the Directions herein contained, it shall be lawful for any Five Shareholders to call such Meeting; and after any such Requisition shall have been left or served as aforesaid, it shall not be lawful for the Committee or any of them to make any Payments out of the Monies of such Company, except in Discharge of *bond fide* Debts or Liabilities, or in Performance of Contracts or Engagements previously entered into, and in Payment of the Expenses of calling and holding such Meeting or any adjourned Meeting, nor to enter into any Contracts or Engagements on behalf of the Company or affecting the Property thereof, nor to issue any Shares or Scrip of or representing the Capital Stock of such Company, until the Meeting called as aforesaid shall have determined the Question of Dissolution.

4...The Meeting shall be held to have been duly called, although the Votes of the Parties calling the same or any of such Votes, shall be disallowed at the Meeting by the Scrutineers to be appointed as herein-after mentioned.

5...The calling of any such Meeting shall be by Notice, signed either on behalf of the Committee by any One Member of the same, or in case the Meeting shall be called by the Shareholders, then by the Shareholders calling the same, such Notice to be advertised in the *London Gazette* Eight clear Days and not more than Fifteen Days before the Time to be therein fixed for holding such Meeting, and also, within the before-mentioned Limits as to Time, in Three *London* daily Newspapers; in the Case of Railways to be made in *Ireland*,

Shareholders may require Committee to call Meeting, and in default may call it themselves.

Meeting to be held duly called, although certain Votes may be disallowed. Notice of Meeting to be by Advertisement.

the said Notice shall also be advertised, within the before-mentioned Limits as to Time, in the *Dublin Gazette* and in Two Newspapers in common Circulation in the City of *Dublin*; and as to Railways to be made in *Scotland*, the said Notice shall also be advertised, within the before-mentioned Limits as to Time, in the *Edinburgh Gazette* and in Two Newspapers in common Circulation in the City of *Edinburgh*.

Notices to specify the Day, Hour, &c. of Meeting.

6...Every Notice of Meeting shall specify the Day, Hour, Place, and Purpose of meeting; and the Parties entitled to be present at such Meeting shall be the Persons producing the Shares, Scrip, or Receipts herein-after defined, or the Proxies after-mentioned.

Chairman to be elected by a Majority of Committee if present.

7...Every Meeting so called shall elect a Chairman within One Hour of the Time appointed for holding such Meeting; and the Person to be in the Chair at every such Meeting shall be some Member of the Committee, to be elected by a Majority of the Members of the Committee present at the Meeting, and in case the Votes of the Members of the Committee present shall be equally divided, or if from any Cause there shall be no Member of the Committee so elected, then some Shareholder entitled to vote shall be elected by the Meeting; and every Person present, either in respect of Shares or of a Proxy, shall have One Vote only for the Election of the Chairman and Scrutineers; and every Chairman shall have a casting Vote, in addition to any other Vote which he may be entitled to; and if any such Chairman shall refuse to give his casting Vote on the Question of Dissolution or Bankruptcy as after-mentioned, the Question shall be considered as carried in the Affirmative for Dissolution of* Bankruptcy.

Chairman to have a casting Vote.

Chairman bound to put Questions proposed, and no other Business to be transacted.

8...The Chairman at every such Meeting shall be bound to put to the Meeting any Question proposed for the Dissolution of the Company, or as to the Bankruptcy thereof, and also as to the Election of Scrutineers; and no Business shall be transacted at any such Meeting other than the Consideration of any such Question so proposed, and the Election of a Chairman and Scrutineers.

Three Scrutineers to be elected.

9...Immediately after the Election of a Chairman, the Meeting shall proceed to elect as Scrutineers, Three Shareholders in the Company, whose Business it shall be to verify as

* "Of;" sic: or?

after-mentioned and take the Votes of the Shareholders entitled to vote, and cast up and declare the same; and the Decision in Writing of them, or of any Two of them, shall be final in all respects.

10...In case it shall be discovered by or shown to the Scrutineers that the Chairman at any Meeting is not entitled to vote as a Shareholder, it shall be lawful for the Meeting either to elect a new Chairman or to maintain such existing Chairman; but such Chairman so maintained in Office shall not thereby acquire the Right of voting as a Shareholder, or of giving a casting Vote; and in case the Votes shall be equally divided, the Resolutions shall be considered as carried in the Affirmative for the Dissolution and as to the Bankruptcy of the Company: Provided always, that all Votes, Acts, and Deeds by any Chairman not entitled to vote, or by the Meeting presided over by him, given or done before the Discovery of his not being so entitled, or given afterwards if he be so maintained, shall be valid and effectual; and as regards the Election of Chairman and Scrutineers by the Votes of the Parties present, and producing Scrip or Proxies, no objection after the Election shall be made on its being shown that they were not entitled to be present.

11...At any such Meeting as aforesaid, in the event of the prescribed Quorum after-mentioned not being present and voting at such Meeting, then the Chairman shall cause the Votes of the Persons constituting the said Meeting to be taken and recorded, and shall then adjourn the same to be held at the same Place, and at a Day to be declared by the Chairman, such Day not being less than Three Days and not more than One Week from the original Day of Meeting; such Day and the Time of Meeting, in the meantime, as regards any Meeting held in any Part of *England*, being advertised twice in each of Three *London* daily Newspapers, and in the Case of a Meeting held at *Edinburgh* twice in Two *Edinburgh* Newspapers, and in the Case of a Meeting held in *Dublin* twice in Two *Dublin* Newspapers; and at such adjourned Meeting, the Votes of such Persons constituting the same as had not voted at the original Meeting shall be taken and recorded, and the total Amount of Votes given at the original and adjourned Meeting shall be received as if given at one and the same Meeting.

Case of the
Chairman
not being
entitled to
vote.

In the event
of a Quorum
not being
present at
such Meet-
ings, the
same to be
adjourned,
and Votes
of Persons
present at
original and
adjourned
Meetings to
be received
as if given
at one and
the same
Meeting.

As to the
Right of
Parties en-
titled to vote
at Meetings
of the Share-
holders.

"Scrip."

"Receipts."

"Share-
holders."

Scale of
voting.

Proxies shall
be signed be-
fore a Master
in Chancery
in England,
or Sheriff,
&c. in Scot-
land.

12...The only Persons entitled to be present and vote at any such Meeting as Shareholders, by themselves or Proxies, shall be those Persons who shall for the Time being be in Possession of and produce Certificates or Receipts declaring Parties entitled to Shares in any Company, or acknowledging the Receipt of a Deposit in such Company, usually termed "Scrip" or "Receipts" for Deposits on Shares; and that, notwithstanding the Party in Possession may not be the Party to whom the same was originally granted, or that the same may not have been legally assigned to the Party in Possession, or notwithstanding the same may be possessed by the Holder as a mere Mortgagee, or in any other Manner, or the same may be subject to any Charge or Lien, and which Parties are by this Act called "Shareholders;" provided that nothing herein contained shall authorize more than One Vote either for Dissolution or Bankruptcy, to be given in respect of the same Share, notwithstanding any Transfer or Delivery of such Share after a Vote shall have been given in respect thereof.

13...Every Shareholder shall, in voting on the Questions of Dissolution and Bankruptcy, be entitled to One Vote, by himself or Proxy, in respect of every Share held by him, or in respect of which Scrip or Receipts may have been issued or Deposits paid; and all Shareholders producing such Shares, Scrip, or Receipts shall be entitled to attend Meetings and to appoint Proxies according to the Form contained in the Schedule hereunto annexed^a, or in some Form to the like Effect: Provided always, and be it enacted, that the Fact of any such Party attending any such Meeting shall not in any-wise increase or alter, either in Law or Equity, his Rights or Liabilities.

14...The Appointment of any such Proxy shall be signed by the Party appointing the same, before a Master or Master Extraordinary of the Court of Chancery in *England* or *Ireland*, or a Justice of the Peace in *England* or *Ireland*, or before a Sheriff or Sheriff Substitute or Justice of the Peace in *Scotland*; or, where such Shares, Scrip, or Certificate shall be in Possession of any Parties beyond Seas, the said Proxy shall be signed as aforesaid, before any of Her Majesty's Consuls or Vice Consuls or a Notary Public; and, on signing the same,

^a Form of proxy for purposes of this act, p. 366.

- the Share, Scrip, or Receipt in respect of which the Proxy is
- intended to be appointed shall be produced to the Master, Justice, Sheriff, Sheriff Substitute, Consul, Vice Consul, or
- Notary Public; and the Number of the Shares, or the Number of Shares referred to in such Scrip or Receipt, and the Name of the Company, shall be ascertained and verified, with the Number and Name of the Company stated in the Appointment of Proxy, before such Master, Sheriff, Sheriff Substitute, Justice, Consul, Vice Consul, or Notary Public.

15...To constitute a Meeting under the Provisions of this Act, for the Purpose of deciding on a Dissolution or Bankruptcy, Persons representing at least One Third Part of the Shares in the Undertaking actually issued or given, either as Shares, Scrip, or Receipts, must be present and vote; and for the Purpose of effecting a Dissolution, and as to Bankruptcy, there must be either a Majority of the Votes of the whole Scrip of the Company issued as *fore* said, or at least Three Fifths of the Votes of Persons present and voting either as Shareholders or Proxies, in favour of the Motion for Dissolution, and for the Bankruptcy, if so resolved on.

Number of Persons, &c., necessary to constitute a Meeting.

Majority must consist of at least Three Fifths of the Votes of Persons present.

16...The Chairman at every such Meeting shall sign a Minute of the Proceedings, and every Minute so signed shall be advertised within the shortest possible Time in the same Papers as those in which Notice of the original Meeting is herein-before required* to be given; and a Copy of the *London Gazette* containing the Advertisement of such Minute, shall be Evidence of the Meeting having been duly called and held and of the Resolutions recorded having been duly passed by the Majorities therein mentioned; and such Minutes shall be countersigned by at least Two of the Three Scrutineers *fore* said: and any Party signing Minutes false or incomplete in any material Particular, or any Person who shall insert or cause to be inserted in the *London Gazette* any Advertisement under the present Clause, knowing the same to be false in any material Particular, shall be guilty of a Misdemeanor; and the Minute directed to be advertised shall also be registered with the Registrar of Joint Stock Companies, without any Fee being chargeable for such Registration.

Minutes of Proceedings to be advertised.

London Gazette to be evidence.

Penalty on signing false Minutes, &c.

17...As regards all projected Railways as *fore* said, any Portion of the intended Line of which is situate in *England* or *Wales*, the Meeting *fore* said may be held, as shall be *spe-*

Places of Meetings shall be held as specified in Notice.

cified in the Notice calling the same, either in *London* or *Westminster*, or at the registered Place of Business of the Company; or as regards any Railways, any Portion of the intended Line of which is situate in the Counties of *Lancaster* or *Chester*, such Meeting may be held at *Manchester* or *Liverpool*, notwithstanding that the registered Place of Business may not be at either of such Places; or as regards any Railways any Portion of the intended Line of which is situate in the County of *York*, such Meetings may be held at *York* or *Leeds*, notwithstanding that the registered Place of Business may not be at either of such Places; as regards Railways situate in *Ireland*, the Meetings may be held either in *London* or *Dublin*, or at the registered Places of Business, as shall be specified in the Notice; and as regards Railways situate in *Scotland*, the Meetings may be held either in *London* or *Edinburgh*, or at the usual Places of Business, as shall be specified in the Notice.

No Votes
allowed
except for
Scrip, &c.,
actually
issued or
given before
31st March,
1846.

Mode of
ascertaining
the Issues.

18...No Parties shall be entitled to vote except in respect of Scrip, Receipts, or Shares actually issued or given before the Thirty-first Day of *March* One thousand eight hundred and forty-six; and the Shares, Scrip, or Receipts actually issued or given, shall for the Purposes of this Act be taken to constitute the whole Number of Shares in the Undertaking, although the Contract may have provided that the Undertaking shall consist of a greater Number; and for the Purpose of ascertaining the Number of Share, Scrip, or Receipts actually issued or given, the Committee of every projected Railway Company to which the Powers given by this Act apply^a (except in regard to Railways to be made in *Scotland*) shall, within Twelve Days after the passing of this Act, be bound to send in, unto the Registrar of Joint Stock Companies, a Return in Writing under the Hand of any Member of such Committee specifying the Number of Shares, Scrip, or Receipts actually issued or given as aforesaid, the Amount of each Share, and of the Deposit paid or to be paid thereon; and in case such Return shall not be so sent in within the aforesaid Period, every Member of the Committee shall forfeit a Sum not exceeding Twenty Pounds, to be recovered in like Manner as any Penalty under the Act intituled *An Act for the Registration, Incorporation, and Regulation of Joint Stock Companies*, is recoverable.

7 & 8 Vict.,
c. 110.

^a See note ^b in p. 354.

19...The Registrar of Joint Stock Companies shall, within Six Days from the passing of this Act, send to the registered Place of Business of every such Company a Notice in Writing under his Hand requiring such Return to be made ; but the Omission to send any such Notice by the Registrar shall not exempt the Committee of any such Company from the Penalties aforesaid ; and every Person shall be at liberty to inspect any Returns made to the Registrar under this Act on Payment of a Fee of Two Shillings and Sixpence ; and the Certificate of the said Registrar, under his Seal of Office, as to the total Amount of the Shares, Scrip, or Receipts, shall be Evidence as to the Amount specified in such Return, and for such Certificate a Fee of Two Shillings and Sixpence shall be paid ; and no Proceedings at any Meeting shall be invalidated by reason of any Defect or Error in such Return ; but any Party making such Return, knowing it to be false, shall be guilty of a Misdemeanor.

Registrars of Joint Stock Companies to require Return of Issues, but Omission of Registrar to send Notice not to exempt Committee from Penalties.

20...In regard to projected Companies for Railways to be made in *Scotland*, the Committee of every such Company to which the Powers given by this Act apply^a, shall, within Twelve Days after the passing of this Act, be bound to lodge with the Sheriff Clerk of the Shire of *Edinburgh* a Return in Writing under the Hand of a Quorum of such Committee, or of every Member thereof, specifying the Number of Shares, Scrip, or Receipts actually issued or given as aforesaid, the Amount of each Share, and the Deposit paid or to be paid thereon ; and in case such Return shall not be lodged within the aforesaid Period, every Member of such Committee shall forfeit a Sum not exceeding Twenty Pounds, to be recovered by a summary Petition to the Court of Session at the Instance of the said Sheriff Clerk.

Committees of projected Railways in Scotland to lodge a Return with the Sheriff Clerk of Edinburgh with in 12 Days from passing of this Act.

Penalty for not lodging Return.

21...The said Sheriff Clerk shall, within Six Days after the passing of this Act, cause to be published in the *Edinburgh Gazette*, and in Two Newspapers in common Circulation in the City of *Edinburgh*, a Notice by him requiring such Returns to be made ; and every Person shall be at liberty to inspect any Returns made to the Sheriff Clerk ; and no Proceeding at any Meeting shall be invalidated by reason of Defect or Error in any such Return, but any Party making such Return, knowing it to be false, shall be held to be guilty of Falsehood and Fraud, and shall be liable to Prosecution and Punishment

The Sheriff Clerk to give Notice by Advertisement for Returns of issued Scrip, &c., to be made.

^a See note ^b in p. 354.

accordingly ; and the necessary Expenses of the Clerk in regard to such Returns and Notices shall be the several Committees making or bound to make ; and shall be recovered in such Amount, from each Committee, as the Sheriff of the Shire of Edinburgh a Writing under his Hand fix and determine.

In default of Return Meeting may be called, which must represent One Third of Capital of the Com-pany.

22. Provided always, and be it enacted, That if, Reason whatever, such Return of the Number of Shares or Receipts actually issued shall not be made within Calendar Month from the passing of this Act, then a Meeting may be called and held under the Provisions of this Act may resolve on Dissolution or Bankruptcy as by Law provided, if Persons representing Shares as before equal to at least One Third Part of the whole Capital Undertaking are present and vote ; and any such Meeting shall have the same Powers as before conferred on a Meeting representing One Third of the Shares actually issued aforesaid.

Meeting to decide if Dissolution or Bankruptcy taken to be an Act of Bankruptcy. Scotland excepted.

23. In addition to the Question of Dissolution, it shall be imperative on the Meeting to decide whether such Resolution shall or shall not be taken to be an Act of Bankruptcy for the Purpose of having the Affairs of the Company regulated under the Provisions of the Act after-mentioned. This Provision shall not extend to the Case of Railways made in *Scotland*.

If Meeting decide that Affairs shall not be so wound up, &c., then they shall be wound up like ordinary Partnerships.

24. In case the Meeting shall resolve that the Affairs of the Company shall not be so wound up, or in the Case of a Railway to be in *Scotland* if the Majority shall be in favour of Dissolution, then (subject to the Power before given to the Committee and to Creditors of the Company by the Act for a Fiat*) the Affairs of the said Company shall be wound up according to the Rules applicable to the Dissolution of Partnership Undertakings, and as if the Undertaking had been dissolved by mutual Consent.

Dissolution not to affect Rights of Creditors.

25. Provided always, and be it enacted, That the Resolution to dissolve the Company, or the actual Dissolution thereof, shall not alter or affect the Rights of Creditors or other Persons, not being Shareholders in the Company, in any Engagements whatsoever which the Company has entered into, and shall not affect any Suits pending before the passing of this Act.

26...Where any Meeting called to consider the Question of Dissolution shall have determined the Question of the Dissolution of the Company in the Negative, no new Meeting shall be called to consider the Question of Dissolution, or any Matter relating thereto, until the Lapse of Six Months from the Day in which the Question was last resolved in the Negative.

If Proposal of Dissolution rejected, no new Meeting to be called for Six Months to consider the Question.

27...It shall be lawful for any Three of those who were of the Committee of any Company so dissolved, at any Time after the Dissolution thereof shall have been resolved, or for any Creditor or Creditors of such Company to such Amount as is now by Law requisite to support a Fiat in Bankruptcy in *England* and *Ireland*, or a Sequestration in *Scotland*, within Three Months after the Dissolution thereof shall have been resolved, to petition that a Fiat in Bankruptcy may issue against such Company if in *England* or *Ireland*, or that the Estates of the Company may be sequestrated if in *Scotland*.

Any Three of the Committee, or any Creditor or Creditors, may petition for a Fiat in Bankruptcy.

28...Upon the Production of a Copy of the *London Gazette* containing the Resolution of any such Meeting as aforesaid, whereby it shall be resolved that the Dissolution of the Company shall be an Act of Bankruptcy, or upon the Petition of any Three of the Committee as aforesaid, or of any Creditor under the last preceding Clause, a Fiat in Bankruptcy shall issue against such Company by the registered Name or Style of such Company; and the Company shall thereupon be deemed to be within the Provisions of an Act passed in the Seventh and Eighth Years of the Reign of Her present Majesty, intituled *An Act for facilitating the winding up of Joint Stock Companies unable to meet their pecuniary Engagements*; and of another Act passed in the Eighth and Ninth Years of the Reign of Her present Majesty, intituled *An Act to facilitate the winding up of Joint Stock Companies in Ireland unable to meet their pecuniary Engagements*, in all respects as if a Fiat in Bankruptcy had issued against it under the said Act before its Dissolution; but this last Provision not to extend to *Scotland*.

On issuing of Fiats, Companies to be subject to the Provisions of the Acts for winding up the Affairs of Joint Stock Companies. 7 & 8 Vict., c. 111.

8 & 9 Vict., c. 98.

29...If the Company be a Company for making a Railway or Railways in *Scotland*, Sequestration of the Estates of such Company shall be awarded on Petition for Sequestration in common Form presented in Name of any Three of the Com-

Sequestration of Estates of dissolved Scotch Railway Com-

panies may
be awarded.

mittee, or of any Creditor or Creditors of such Company to such Amount, and on such Evidence of Debt or Debts of such Creditor or Creditors, as is now by Law requisite for obtaining Sequestration of the Estates of any Company liable to Sequestration, there being always produced along with the Petition for Sequestration a Copy of the *London* or *Edinburgh Gazette* containing the Resolution whereby the Dissolution of the Company shall have been resolved upon; and such Sequestration, being so awarded, shall be followed out, in regard to the Election of an Interim Factor and Trustee and Commissioners, and in regard to the Proof and Ranking of Debts, the Recovery and Distribution of the Estate, and all other Matters necessary thereto, in the same Manner and by the same Course of Procedure, as nearly as may be, as is by Law provided in Cases of Sequestration of the Estates of Trading Companies in *Scotland*: Provided always, that such Sequestration shall not extend to or affect the Estates of the individual Partners of the Company, nor preclude the Rights or Remedies otherwise competent by Law to the Creditors of such Company against the individual Partners thereof, or the Estates of such individual Partners.

As to new
Railways by
incorporated
Companies.

• 30...When any Company for making any Railway, actually incorporated before the passing of this Act, shall have agreed to form any new or other Railway or an Extension thereof, and in respect of which a new or further Capital shall have been agreed to be raised or contributed, and Shares as herein-before defined shall have been issued or otherwise appropriated, and Deposits paid thereon, then such Company or Partnership (as regards the new Undertaking) shall in all respects be considered as a Company or Undertaking within the Provisions of this Act; and Meetings shall be held, and Shareholders entitled to Shares as aforesaid in the new Undertaking shall, in manner herein-before provided, have Power to dissolve such new Undertaking, and to decide as to Bankruptcy, in all respects as is provided with regard to the Companies herein-before mentioned or defined.

Member
against
whom Judgment shall
have been
recovered to
be repaid by

31...Where the Dissolution of a Company shall have been resolved under this Act, if Judgment shall have been recovered or shall afterwards be recovered in any Action against any Member of the Committee, for any Debt due from such Company or from such Committee in respect of the

undertaking, the Member against whom such Judgment shall have been recovered shall be entitled at Law to a Contribution from each of the other Members of such Committee towards the Payment of the Monies recovered by such Judgment, and of all Costs and Expenses in relation thereto, of such a Share of the whole Amount of such Monies, Costs, and Expenses as would have been borne by such respective Member upon an equal Contribution by all the Members of such Committee, and may recover the Contributions to which he may be so entitled, or any of them, by Action or Actions of Debt or on the Case, against all or any of such other Members of such Committee, but so that no such Member shall be liable upon any such Action as aforesaid for more than the Share to which he shall respectively be liable to contribute under this Provision.

Contribution from other Members, together with Costs.

32...After the Dissolution of any Company shall have been dissolved under this Act, no Action or Suit shall be brought for the Recovery of any Fees, Charges, or Disbursements for any Business done for such Company by any Attorney or Solicitor, whether in his Character of Attorney or Solicitor, or as Agent or otherwise, until the Expiration of One Calendar Month after a Bill of such Fees, Charges, and Disbursements, signed by the Claimant, shall have been delivered to the Committee or Official Assignee authorized to wind up the Affairs of such Company, or left at their or his Place of Business; and it shall be lawful for the Court of Queen's Bench, Common Pleas, or Exchequer, or any Judge of either of such Courts, and they are respectively hereby required, on the Application of such Committee or of such Official Assignee, to refer such Bill to be taxed and settled by any Taxing Officer of the Court in which such Reference shall be made; and the Court or Judge making such Reference shall restrain the Claimant from commencing any Action or Suit touching his Demand, pending such Reference, and such Taxing Officer may take such Evidence in relation to such Bill as he may think fit; and the Costs of such Reference shall be paid according to the Event of such Taxation, (that is to say,) if such Bill when taxed be less by a Sixth Part than the Bill delivered, then the Claimant shall pay such Costs, and if the Bill when taxed shall not be less by a Sixth Part than the Bill delivered, then the Party on whose Application the Reference shall have been made shall

After Dissolution of Company no Action, &c. to be brought by any Attorney, &c. until One Month after Bill of Fees shall have been delivered.

Courts may refer Bills for Taxation to Taxing Officers.

pay such Costs, to be considered and allowed nevertheless as Part of the Costs, Charges, and Expenses of executing the Trusts and Powers of this Act; and every Order to be made for such Reference shall direct the Officer to whom such Reference shall be made, to tax such Costs of such Reference to be so paid as aforesaid, and to certify what upon such Reference shall be found to be due to or from such Claimant in respect of such Bill, and of the Costs of such Reference; and after such Reference as aforesaid, no further or other Sum than shall be so found due shall be recoverable in respect of such Bill.

Interpreta-
tion :

33...The following Words and Expressions shall have the Meanings hereby assigned to them respectively, so far as such Meanings are not excluded by the Context or Subject Matter; *videlicet*,

" Month."

The Word " Month" shall mean Calendar Month :

" Person."

The Word " Person" shall include Corporations.

SCHEDULE TO WHICH THIS ACT REFERS^a.

Form of Proxy.

— Railway Company.

Proxy to vote in respect of Shares.
I, A. B., of , Holder of [Shares, or Scrip. or
Receipts for Shares, as the Case may be], numbered respectively
[here insert the Numbers, unless the Shares, Scrip, Receipts, or Letter
do not show the denoting Numbers], in the projected Railway
Company, do hereby appoint C. D., of to be my
Proxy upon any Matter relating to the Dissolution or Bankruptcy of
the said Company, to vote dissent^b, and act as he shall think proper.
Witness my Hand^c, the Day of

Taken before me, having verified the Numbers
and Name of the Company with the Docu-
ments produced to me^c.

Signed —, (*And add whether Master Extraordinary,
Sheriff, Sheriff Substitute, Justice, Consul, Vice
Consul, or Notary Public.*)

^a § 13 (p. 358.) ^b Sic. ^c See § 14 as to mode of signing, &c., (p. 358.)

XXXIV.—EXTENSION OF TIME, &C.

11 VICT., CAP. 3.

An Act to give further Time for making certain Railways.

[20th December, 1847.]

WHEREAS divers Acts of Parliament have been passed for making Railways^a, and in such Acts respectively certain Periods of Time are limited within which only the Powers thereby granted, whether for making the Railways or for the compulsory Purchase of the Lands therein referred to, can be lawfully exercised: And whereas it is expedient that in certain Cases further Time be granted for the Purposes aforesaid; be it enacted^b...That if any Railway Company, or Person authorized by any Act or Acts of Parliament to construct a Railway or any Works connected with a Railway, or to purchase Lands for any such Purpose, desire that the Period limited by such Act or Acts for the Completion of such Railway or Works, or for the Purchase of such Lands, be extended, such Company or Person may, at any Time within Two Calendar Months after the passing of this Act, make Application^c in Writing, to the Commissioners of Railways^c, setting forth what Extension of Time is desired by them or him, and to what Part of the Railway, or the Works or Lands connected therewith, the same is intended to apply, and the Grounds on which such Application is made.

Railway Companies may apply to Commissioners of Railways for Extension of Time for Purchase of Lands, &c.

2...If it appear to the said Commissioners that there are sufficient Grounds for entertaining such Application, they shall require the Company, or Person making the same, to give Notice of such Application having been made, by Advertisement, inserted in such Form as shall be approved of by the said Commissioners, once in the *London, Edinburgh, or*

Commissioners may require Company to give Notice of Application by Advertisement in the Gazette.

^a The present act applies only to cases in which Railway Acts had been obtained by any Companies before its passing, and in which applications for further time were made within two months after the date of this act, which was passed on 20th December, 1847, and has now therefore become obsolete: see also § 8 and § 9 (p. 370.)

^b See note ^a in p. 1.

^c Commissioners of Railways, under 9 & 10 Vic. c. 105; see p. 349, note ^b.

Dublin Gazette, accordingly as such Railway or Works or Lands are in *England, Scotland, or Ireland*, and once of Three successive Weeks in some Newspaper published circulating in each County in which any Part of such Railway or Works or Lands to which the Extension of Time is to apply is situated, and affixed for Three successive Weeks on the principal outer Door of the Church or Church of every Parish in which any such Part of such Railway or Works or Lands is situated ; and every such Notice forth within what Time and in what Manner any Person thinks himself aggrieved by any such proposed Extension of Time, and who desires to object thereto, may bring objections before the said Commissioners.

Commissioners of Railways by Warrant under their Seal, may, upon Proof that Notice has been given, enlarge the Time for the Completion of Purchases and Works.

3...Upon Proof to the Satisfaction of the said Commissioners that such Notice had been duly given, and after the expiration of the Time therein appointed for bringing Objections before the said Commissioners, and after considering Objections, if any, which have been brought before the said Commissioners may, if they think fit, and upon such Terms and Conditions as they think fit, by Warrant under their Seal, and signed by Two or more of the said Commissioners, extend the Period allowed by any such Act as aforesaid, whether for the Completion of such Railway or Works or for the compulsory Purchase of Lands for the purpose, for such further Time as the said Commissioners think fit, not exceeding Two Years from the Expiration of the Periods so allowed by such Act or Acts respectively ; and may so extend such Periods respectively, either as to the whole of such Railway or Works, and the whole of the Time required for the same, or as to so much of such Railway or Works, or the Lands connected therewith, as shall be specified for that Purpose in such Warrant.

Acts mentioned or referred to in such Warrants to be construed with reference to the same.

4...When any such Warrant as aforesaid is granted by the said Commissioners, the Act or Acts of Parliament authorising the Construction of the Railway or Works mentioned or referred to in such Warrant, shall, as to the Portion of the Railway or the Works or Lands described thereby or contained in such Warrant, be construed as if the extended Periods of Time mentioned in such Warrant had been limited by the Act or Acts limited as the Period or Periods respectively.

* See note * in p. 367.

within which the Powers of such Act or Acts might lawfully be exercised, whether for the Construction of such Railway or Works or for the compulsory Purchase of the Lands required for the same, instead of the Periods mentioned in such Act or Acts respectively.

5. Provided always, and be it enacted, that this Act shall not have the Effect of reviving any Powers which had expired before the making of such Application^a, and that it shall not prejudice or affect any Contract or Agreement entered into before the passing of this Act; and where, before the passing of this Act, any Contract hath been entered into, or Notice given by any such Railway Company or Person, for purchasing, taking, or using any Lands which, under any such Act or Acts as aforesaid, such Company or Person is entitled to purchase, take, or use,—this Act, or any Warrant thereunder^b, shall not authorize any Extension of the Time allowed for the Purchase of the Lands comprised or mentioned in such Contract or Notice; and every such Contract and Notice respectively shall be construed and shall take effect, and the same Proceedings shall be had thereunder, and all Parties thereto shall be entitled to the same Rights and Remedies in respect thereof, both at Law and in Equity, as if this Act had not been passed.

Not to revive expired Powers.

Existing Contracts and Notices to take Lands to be construed as if this Act had not passed.

6... Within One Calendar Month after the Day on which any such Warrant as aforesaid^b is granted by the said Commissioners, they shall cause Notice thereof to be inserted in the *London, Edinburgh, or Dublin Gazette*, accordingly as the Railway, Works, or Lands mentioned therein is or are in *England, Scotland, or Ireland*.

Notice of Warrants being granted to be published in the Gazette.

7. Provided always, and be it enacted, that whenever any such Warrant as aforesaid^b shall have been granted by the said Commissioners, for extending the Time within which any of the Powers given by any such Act or Acts may lawfully be exercised, the Justices, Arbitrators, Umpires, or Juries respectively, as the Case may be, who under the Provisions of such Act or Acts shall award or assess the Compensation to be made by any such Company or Person as aforesaid to the Owners or Occupiers of or other Persons interested in any Lands taken or used for the Purposes of any such Railway or Works, or injuriously affected by the Construction thereof, shall, in estimating the Amount of such Compensation, have

Parties aggrieved by Extension of Time being granted may have Compensation for additional Damages.

^a § 1, and note ^a, in p. 367.

^b § 3.

regard to and make Compensation for the additional Damage (if any), sustained by such Owners, Occupiers, or other Persons, by reason of any such Extension of Time having been granted as aforesaid.

Contracts for new Works not to be entered into for a limited Period, except in certain Cases.

8...No Railway Company authorized by Act of Parliament to construct a Railway, or any Works connected with a Railway, who had not before the Twenty-seventh Day of *November* in the Year One thousand eight hundred and forty-seven^a executed any Part of the Works, or entered into any Contract or Agreement for the Execution of any Part of the Works which they were for the first Time authorized by such Act to construct, shall within Twelve Calendar Months after the passing of this Act enter into any Contract or Agreement for the Execution of any Works so for the first Time authorized by such Act, excepting always from this Enactment Contracts and Agreements for the Construction of Part of any Railway or Works which by any Act shall have been substituted by way of Deviation from any Part of the Line of such Railway as authorized by some previous Act, or in lieu of some other Works authorized by some previous Act, and also Contracts and Agreements for the Construction of such other Works as the Company shall be authorized to proceed in constructing by the Consent of the Holders of Three Fifths of the Shares or Stock held by such of the Shareholders of such Company as shall signify their Assent thereto or Dissent therefrom within the Time and in the Manner herein-after mentioned, or as they shall be authorized to proceed in constructing by an Order of the said Commissioners of Railways^b published in the *London, Edinburgh, or Dublin Gazette*, according as the Works are situated in *England, Scotland, or Ireland*; and all Contracts and Agreements entered into in Contravention of this Enactment shall be utterly void and of no Effect.

Mode of ascertaining Consent of Shareholders to the making of Contracts for new Works.

9...For the Purpose of ascertaining such Consent of the Shareholders as aforesaid, a General Meeting of the Shareholders of such Company shall be held within Six Weeks after the passing of this Act^a, of which public Notice shall be given by public Advertisement in the Manner required or usually adopted for advertising the Extraordinary General Meetings of such Company; and a Circular Letter shall be sent by the

^a See note ^c in p. 367.

^b See note ^a in p. 367.

Post, addressed to each of the Shareholders of such Company, according to his registered Address* or other known Address, describing the Portion of Line or Works proposed to be executed, and stating that a General Meeting of the Shareholders of such Company will be held, at a Time and Place mentioned in such Circular, for the Purpose of determining whether a Contract for executing such Works shall be entered into or not within the Twelve Months next after the passing of this Act, and requesting such Shareholder to signify his Assent to or Dissent from the making of such Contract, according to a Form to be contained in such Circular Letter, which Form shall be to the Effect set forth in the Schedule hereto^b; and such Circular Letter shall request such Shareholder either to return such Form, signed by him, in a Letter addressed to the Secretary of such Company, or to attend such General Meeting as aforesaid, and deliver the same, so signed by him, to the Chairman thereof; and at the Meeting so to be held the Chairman thereof shall cast up the Number or Amount of Shares or Stock held by Shareholders assenting to the making of such Contract, and the Number or Amount of Shares or Stock held by Shareholders dissenting therefrom, whether such Assent have been signified by the Shareholder sending to the Secretary of the Company such Form as aforesaid signed by him, or by such Shareholder attending such Meeting and delivering in the same to the Chairman thereof; and such Chairman shall thereupon publicly announce the Number or Amount of Shares or Stock of the Shareholders assenting to the making of such Contract, and the Number or Amount of the Shares or Stock of those dissenting therefrom, and shall state whether or not the Holders of Three Fifths of the whole of such Shares or Stock consent to the making of such Contract: Provided always, that in computing the Number or Amount of the Shares of Shareholders assenting or dissenting as aforesaid, no Share shall be taken into account the Holder whereof shall not have paid all the Calls then due by him upon the Shares held by him.

10...A Certificate under the Hand of the Chairman of the Company, and countersigned in each Case by the Secretary of the Company, stating that such Meeting as aforesaid has been

Certificate of the Chairman of Company, countersigned by the Secre-

* Companies Clauses Act, § 10 (VI. 10, p. 63.)

tary, to be
Evidence of
Consent.

duly held, and such Circular Letter sent, and such Consent given as aforesaid, in Cases where the same is given, shall, within One Week after the Day of holding such Meeting, be deposited in the Office of the said Commissioners of Railways^a; and such Certificate, or a Copy thereof, certified under the Seal of the said Commissioners to be a true Copy, shall be received as Evidence in all Courts, and before all Justices and others, that such Consent was duly given within the Time aforesaid.

SCHEDULE referred to by the foregoing Act.^b

(1) Name of Railway.	(1) Name of Shareholder.	(1) No. of Shares or Amount of Stock held by him.	(1) Works proposed to be contracted for.	(2) Whether assenting or dissenting.

(1) The Secretary will insert these Particulars.

(2) In this Column the Shareholder will write the Word “assenting” or “dissenting,” as the Case may be, and sign his Name thereunder.

XXXV.—RAILWAYS ABANDONMENT.

13 & 14 VICT., CAP. 83.

An Act to facilitate the Abandonment of Railways, and the
Dissolution of Railway Companies, in certain Cases.
[14th August, 1850.]

WHEREAS divers Joint Stock Companies have been incorpo-
rated by Act of Parliament for making Railways ; and it has
been found that such Railways, or certain Parts thereof, can-
not be made or carried on with Advantage either to the Pro-

^a See note ^c in p. 367.

^b § 9 (p. 371.)

motors thereof or to the Public; and it is expedient therefore that Facilities should be given for the Abandonment of such Railways or Parts of Railways, and for the Dissolution of such Companies, or some of them, and winding up the Concerns thereof: Be it therefore enacted^a...That if any Company authorized by Act of Parliament heretofore passed^b to make a Railway desire that the making and carrying on of such Railway or some Part thereof, whether commenced or not, be abandoned, such Company may, by the Authority and with the Consent of the Holders of Three Fifths of the Shares or Stock of such Company, represented in manner hereinafter mentioned at a General Meeting of Shareholders to be convened in manner herein-after mentioned, make Application in Writing to the Commissioners of Railways^c, setting forth the Particulars of the Railway or Portion of the Railway desired to be abandoned by them, and the Grounds upon which such Application is made.

Railway Company may make Application to Commissioners of Railways to be allowed to abandon their Undertaking.

2...It shall be lawful for the Directors of any such Railway Company at any Time to call a Meeting of the Shareholders thereof for the Purpose of determining whether such Application shall be made to the Commissioners of Railways^c, and so from Time to Time as they shall see fit.

Directors may call Meeting to consider such Application.

3...It shall be lawful for any Number of Shareholders of any such Company, not being less than Five, and holding in the aggregate not less than One Twentieth of the Capital or Stock of the Company, consisting of Shares or Stock whereon all Calls for the Time being have been paid up, but exclusive of any Shares or Stock held by or in the Names of the Directors of the Company or any of them, or by or in the Name of any Person in trust for the Directors or any of them or for the Company, and which Shareholders shall have paid all the Calls then due on the Shares held by them, by Writing under their Hands, to require the Directors of such Company to call a Meeting for the Purpose aforesaid; and upon the Receipt of any such Requisition, such Directors shall forthwith proceed to call a Meeting of the Shareholders of such Com-

Shareholders may require Directors to call Meeting.

^a See note ^a in p. 1.

^b This act applies only in the case of Companies which had obtained an act before 14th August, 1850, the date of the present act: and see § 30, 31, referring to the Winding-up Acts, (p. 385.)

^c Commissioners of Railways, under 9 & 10 Vic. c. 105; see p. 349, note ^b.

pany on a Day to be named by them, not being less than Fourteen nor more than Twenty-eight Days after the Receipt of such Requisition: Provided always, on the Default of the Directors to call and advertise such Meeting within Fourteen Days after the Receipt of the Requisition, it shall be lawful for the Requisitionists to call such Meeting themselves, at a Time and Place to be appointed by them, of which Fourteen Days Notice shall be given by them by Advertisement as herein-after provided: Provided also, that when any Meeting of any such Company shall have been called pursuant to any such Requisition as aforesaid, the Directors of such Company shall not be required to call any further Meeting of such Company upon any further Requisition for the like Object until Twelve Months shall have elapsed since the holding of such previous Meeting.

After Receipt of Requisition, Directors not to make any Payments, except under existing Liabilities, nor to enter into new Contracts, nor to make new Calls.

4...After any such Meeting has been called by the Directors, or after the Receipt of any such Requisition as aforesaid, it shall not be lawful for the Directors to make any Payments out of the Monies of the Company for the Purposes of the Railway proposed to be abandoned, except in discharge of *bonâ fide* Debts or Liabilities, or in performance of Contracts or Engagements previously entered into, and in payment of the Expenses of calling and holding such Meeting; nor to enter into any Contracts or Engagements on behalf of the Company with respect to the Railway so proposed to be abandoned, nor to make any Calls, nor to register the Transfer of any Shares, until the Meeting called as aforesaid shall have determined whether such Application shall be made.

Mode of calling Meeting, and signifying the Consent of the Shareholders to the Application.

5...The calling of any such Meeting shall be by public Advertisement in the Manner required or usually adopted for advertising the Extraordinary General Meetings of such Company^a; and where such Meeting is called by the Directors of the Company a Circular Letter shall be sent by the Post addressed to each of the registered Shareholders of such Company, according to his registered Address or other known Address, Seven clear Days at least before the holding of such Meeting, and stating that a General Meeting of the Shareholders of such Company will be held at a Time and Place mentioned in such Circular, for the Purpose of determining

^a Companies Clauses Act, § 71, 133 (p. 85, 107.)

urther Application shall be made to the Commissioners of
 lways^a that such Railway or the Part thereof specified in
 1 Notice may be abandoned, and requesting such Share-
 lder to signify his Assent to or Dissent therefrom, which
 7 be according to a Form to be contained in such Circular
 ter which Form shall be to the Effect set forth in the
 edule hereto^b; and such Circular Letter shall request such
 reholder either to return such Form signed by him, in a
 ter addressed to the Secretary of such Company, or to at-
 1 such General Meeting as aforesaid and deliver the
 e, so signed by him, to the Chairman thereof; and in the
 e of every such Meeting, whether called by the Directors
 y such Requisitionists as aforesaid, the Shareholders may
 ify their Assent to or Dissent from the proposed Appli-
 on, either by attending such Meeting in Person or by
 ter addressed to the Secretary of the Company, stating
 Assent or Dissent of such Shareholders, in a Form which
 1 be to the Effect of the Form set forth in the Schedule
 to^b, and signed by such Shareholders respectively.

..At the Meeting so to be called as aforesaid, the Scruti-
 rs to be appointed as herein-after mentioned shall cast up
 Amount of Shares held by Shareholders assenting to the
 ring of such Application, and the Amount of Shares held
 Shareholders dissenting therefrom, whether such Assent
 Dissent have been signified by the Shareholder sending to
 Secretary of the Company such Form as aforesaid signed
 him, or by such Shareholder attending such Meeting and
 vering in the same to the Chairman thereof; and such
 atineers shall report to the Chairman the Amount of
 res of the Shareholders assenting to such Application, and
 Amount of the Shares of those dissenting therefrom, and
 said Chairman shall thereupon publicly announce to the
 sting the said Amounts respectively, and shall state whe-
 or not the Holders of Three Fifths of the whole of such
 res represented in manner aforesaid at the Meeting con-
 . to such Application: Provided always, that in comput-
 the Amount of Shares of the Shareholders assenting or
 enting as aforesaid, no Share shall be taken into account
 Holder whereof shall not have been duly registered, or
 shall not have paid all the Calls then due by him upon all

The Number
 of the Share-
 holders as-
 senting or
 dissenting to
 be ascer-
 tained by
 Scrutinists,
 and reported
 to the Chair-
 man.

^a See note * in p. 372.

^b p. 382.

the Shares held by him, unless such Calls shall have been made within Three Months prior to the holding of such Meeting, or if such Meeting be held pursuant to a Requisition of Shareholders as herein-before provided, then Three Months prior to the Day on which such Requisition was presented to the Directors.

Chairman of the Meeting.

7. The Chairman of the Directors of such Company if present, or in his Absence the Deputy Chairman, if any of such Directors, shall be the Chairman of such Meeting as aforesaid, or if neither such Chairman nor Deputy Chairman of the Directors be present, any Shareholder chosen for that Purpose by a Majority of the Shareholders present at the Meeting shall be the Chairman thereof.

Meeting to elect Scrutineers.

8. At every such Meeting, the Shareholders present thereat shall elect Three Shareholders of the Company to be Scrutineers for the Purposes aforesaid, and in electing such Scrutineers each Shareholder shall have One Vote only, and shall vote for One Scrutineer only; and the Decision of such Scrutineers, or of any Two of them, upon any of the Matters hereby intrusted to them, shall be final in all respects.

Adjournment of Meeting on Application of Scrutineers.

9. For the Purpose of receiving the Report of the said Scrutineers, the Chairman of such Meeting may, if he think fit, on the Application of any One of such Scrutineers, and he shall, if required by more than One of such Scrutineers, adjourn such Meeting to some Time to be appointed by him not less than One clear Day nor more than Seven clear Days from the Day of holding such Meeting.

Certificate of the Chairman to be Evidence.

10. A Certificate under the Hand of the Chairman of the Meeting, stating that such Meeting as aforesaid has been duly held, and such Consent given as aforesaid in Cases where the same is given, shall within One Week after the Day of holding such Meeting be deposited in the Office of the said Commissioners of Railways*.

Shareholders desiring Abandonment, and complaining that the Sense of the Company has not been fairly ascertained, may apply to the Commissioners.

11. Provided always, and be it enacted, That if it appear to any of the Shareholders of any such Company who shall have signed any such Requisition, or been present at any such Meeting as aforesaid at which the Proposal to apply to the said Commissioners* to authorize the Abandonment of the whole or Part of a Railway shall have been negatived or alleged to be negatived, either that such Meeting was not duly called, or that the Sense thereof was not duly taken

* See note * in p. 373.

According to the true Intent and Meaning of this Act, and that if such Meeting had been duly called, and the Sense thereof duly taken, the Consent of such Meeting to the proposed Application would have been given, it shall be lawful for any such Shareholders, not being less in Number than Five, and holding in the aggregate not less than One Twentieth of the Capital or Stock of the Company, consisting of Shares or Stock whereon all Calls for the Time being have been paid up, and which Shareholders shall have paid all the Calls then due on the Shares held by them, to apply to the said Commissioners, setting forth in Writing the Grounds on which they complain of the Decision alleged to have been come to at such Meeting as aforesaid, and praying that a further Meeting may be called, and if it appear to the said Commissioners (after hearing the Parties complained of, if they desire to be heard,) that there is good Reason to believe that if such Meeting had been duly called, and the Sense thereof duly taken, the Consent of such Meeting to the proposed Application to the said Commissioners would have been given, the said Commissioners shall certify their Judgment to that Effect, and shall direct a further Meeting to be called by the Directors of such Company at the Time and Place to be appointed by the said Commissioners, and the said Directors shall call such Meeting accordingly, or in default thereof it shall be lawful for the Shareholders who complained to the said Commissioners of the Proceedings of the former Meeting to call such Meeting, and all the Provisions of this Act shall apply to any further Meeting so directed to be called in like Manner as to any original Meeting herein-before authorized or required to be called.

12...If at any such Meeting any Railway Company shall determine, as herein-before mentioned, that such Application as aforesaid shall be made, or if the said Commissioners shall certify as aforesaid their Judgment, that if such Meeting had been duly called and the Sense thereof duly taken the Consent of such Meeting to the proposed Application to the said Commissioners would have been given, then, as from the Date of the Resolution so come to at such Meeting, or the Date of the said Certificate, as the Case may be, the Directors of such Company shall not have Power to proceed any further with the making of the Railway, or the Part thereof so proposed to be abandoned, until the Decision of the Commis-

If Meeting determine that Application shall be made, Directors not to proceed meanwhile.

Commissioners of Railways to direct Advertisements of Application.

sioners of Railways^a with respect to such Application be made, and then only in accordance with such Decision.

13...If it appear to the said Commissioners^a that there are sufficient Grounds for entertaining such Application, the said Commissioners shall require and direct the Company making the same to give Notice of such Application having been made, by Advertisement inserted, in a Form to be approved of by the said Commissioners, once in the *London, Edinburgh, or Dublin Gazette*, according as the Railway or Part of the Railway proposed to be abandoned is situate in *England, Scotland, or Ireland*, and once in each of Three successive Weeks in some Newspaper published or circulating in each County in which any Part proposed to be abandoned of such Railway is situated, and affixed for Three successive *Sundays* on the principal outer Door of the Church or Churches of every Parish in which any Part of such Railway where the whole is proposed to be abandoned, or in which any Part proposed to be abandoned, is situate; and in *Ireland* such Notice shall also be affixed to the Roman Catholic Chapel, and where there shall be no such Church or Chapel on some public or conspicuous Place of such Parish; and every such Notice shall set forth within what Time and in what Manner any Person who thinks himself aggrieved by any such proposed Abandonment, and who desires to object thereto, may bring such Objection before the Commissioners.

Commissioners to have Power to inspect the Company's Books and other Documents and to send an Officer for local Inspection.

14...For the Purpose of ascertaining the State and Condition of the Company making any such Application, and of inquiring into the Expediency of the proposed Abandonment of Railway, and of determining the Terms and Conditions on which the same may be authorized by them, it shall be lawful for the Commissioners of Railways^a, by themselves or by any Officer appointed and specially empowered by them for that Purpose, to inspect the Books of Accounts, Minutes of Proceedings, or any other Books, Papers, or Documents in the Possession or Control of such Company, and also, if they see fit so to do, to send, at the Expense of such Railway Company, or at the Expense of any Person who applies to them for that Purpose, an Officer to be appointed by them to inspect the Railway or proposed Railway or Work so proposed to be abandoned, and to collect Evidence on the Spot relative to such Abandonment; and if any such Company, or any of their

^a See note ^c in p. 373.

Officers or Servants, shall refuse such Inspection by the said Commissioners, or any Officer appointed and specially empowered by them for that Purpose, or refuse or wilfully neglect to produce to the said Commissioners or any such Officer, on Demand, any Books, Papers, or Documents in the Possession or Control of such Company, every such Company shall for every such Refusal or Neglect forfeit to Her Majesty the Sum of Twenty Pounds, and a further Sum of Five Pounds for every Day during which such Refusal or wilful Neglect shall be continued.

15... Upon Proof to the Satisfaction of the said Commissioners that such Notice has been duly given, and after the Expiration of the Time therein appointed for bringing Objections before the said Commissioners, and after considering all the Objections, if any, brought before them, the said Commissioners may, if they think fit, and upon such Terms and Conditions as they think fit, by Warrant under their Seal, and signed by Two or more of the said Commissioners, authorize the Abandonment of the Railway or Portion of Railway described in such Warrant.

Commissioners of Railways may by Warrant authorize the Abandonment of the Railway or Part of Railway described in the Warrant.

16. Provided always, and be it enacted, That in considering the Objections which may be made by any of the Shareholders of any Railway Company to the proposed Abandonment of a Part only of the Railway of such Company, and in determining the Terms and Conditions on which the said Commissioners may think fit to authorize any such partial Abandonment, the said Commissioners shall have regard to the local Situation of the Lands and Residences of the Shareholders so objecting with reference to the Portion of Railway proposed to be abandoned ; and in the Case of any such Shareholders being original Subscribers to the Undertaking, and not being Solicitors, Agents, or Engineers employed in promoting the same, and whose Places of Residence or Lands are adjoining or near the Line of the Portion of Railway so proposed to be abandoned, it shall be lawful for the said Commissioners, if they think fit so to do, in any Direction which (under the Provision herein-after contained) they may give for reducing the Capital of the Company authorized to construct such Railway, to provide, at the Request of any such last-mentioned Shareholders, that the nominal Amount of the Shares held by them in such Company may be reduced to the Amount then already paid up by them respectively, or to such other Extent as the said Commissioners may think fit to

In considering Objections of Shareholders to partial Abandonment, Commissioners to have regard to local circumstances.

Power to reduce or cancel the Shares of the Objectors in certain cases.

order in that Behalf; or the said Commissioners may, at the like Request, direct any such Shares to be cancelled, and a Part of the Monies that may have been paid up in respect of such Shares, bearing such Proportion to the whole as the said Commissioners, having regard to all the Circumstances of the Case, shall think fit to determine, to be repaid to such Shareholders.

Abandonment of Railway to be advertised, and Demands on the Company for Compensation to be sent in.

17...Within One Month after the Day on which any such Warrant as aforesaid is granted by the said Commissioners, the Railway Company to which the same applies shall cause Notice thereof to be inserted in the *London, Edinburgh, or Dublin Gazette*, according as the Railway or Part of Railway mentioned therein is situate in *England, Scotland, or Ireland*, and once in each of Three successive Weeks in some Newspaper published or circulating in each County in which any Part of such abandoned Railway is situate, and to be affixed for Three successive *Sundays* on the principal outer Door of the Church or Churches of every Parish in which any such Part of such Railway is situate; and in *Ireland* such Notice shall also be affixed to the Roman Catholic Chapel, and where there shall be no such Church or Chapel, on some public or conspicuous Place of such Parish; and every such Notice shall require all Persons having any Claims or Demands upon the said Company for Compensation or otherwise, by reason of the Abandonment of Railway authorized by such Warrant, to transmit the Statement of such Claims or Demands to the Secretary of such Company, at the Office or usual Place of Business of the same Company, within Four Months from the Date of such Warrant.

Commissioners of Railways to certify the due Publication of the Notice of the Warrant.

18...Upon Proof to the Satisfaction of the said Commissioners that Notice of such Warrant has been duly published in manner herein-before required, the said Commissioners shall certify the same accordingly; and such Certificate shall be received in all Courts of Justice or elsewhere as Evidence that such Notice was duly published as aforesaid.

After the granting of Warrant the Company to be released from Liability to make the Railway.

19...After the granting of any such Warrant, and the Publication of such Notice thereof as aforesaid, the Company shall (subject to the Provisions herein-after contained) be released from all Liability to make, maintain, or work the Railway mentioned in such Warrant, or the Part thereof thereby authorized to be abandoned, or to purchase any of the Lands required for the making thereof, or to complete the Purchase of any such Lands for the Purchase of which Notice

may have been given, or any Contract entered into, by or on behalf of the Company, or to complete any Contract for or concerning the making, maintaining, or working of the Railway so to be abandoned, or any other Contract relating to the Railway or Part of Railway so authorized to be abandoned which by reason of such Abandonment cannot be performed : Provided always, that nothing in this Act contained shall extend to release the Company from any Liability to complete the Purchase of any Land for the Purchase of which any Contract may have been entered into by or on behalf of the Company, and which Contract may have been in part performed, or by virtue or in pursuance of which a specified Sum or Price as the Consideration for the Purchase of the Lands thereby agreed to be sold to or taken by the Company shall have been fixed or ascertained previously to the passing of this Act, notwithstanding the Time for the Completion of the Purchase named in such Contract shall have been subsequently extended by Agreement or Arrangement with the Company.

20. Provided always, and be it enacted, That in every Case in which before the granting of any such Warrant any Notice hath been given or Contract entered into by or on behalf of the Company named therein for purchasing any Lands which such Company were by the Acts relating thereto empowered to purchase for the Purpose of constructing the Railway or Portion of Railway so authorized to be abandoned, and from which Contract such Company would be relieved under the Provisions herein-before contained, or where any Contract hath been entered into for or concerning the constructing, maintaining, or working of the Railway or Part of Railway so authorized to be abandoned, or any other Contract relating thereto, which by reason of such Abandonment cannot be performed, the Company shall make to the Owners or Occupiers of and other Parties interested in such Lands, or being Parties to such Contracts as aforesaid, Compensation, to be determined by Arbitration as herein-after mentioned, for all Injury or Damage, if any, sustained by such Owners, Occupiers, and other Parties by reason of such Purchase not being completed pursuant to such Notice, or by reason of such Contract not being performed.

21...Where any Railway or Part of a Railway so authorized to be abandoned shall have been then made or commenced, such Company shall make to the Owners and Occupiers of

Compensation to be made where Contracts have been entered into or Notice given.

Compensation to adjoining land-owners in

lieu of Accommodation Works.

the Lands adjoining the Railway or Part of a Railway so commenced or made, and authorized to be abandoned, Compensation, to be determined by Arbitration as herein-after mentioned, for all such Injury or Damage, if any, as shall be sustained by such Owners or Occupiers by reason of the Omission to make Gates, Passages, Drains, Watercourses, Bridges, and such other Works, for the Accommodation of Lands adjoining the Railway, as such Company would have been required to make if such Railway had not been allowed to be abandoned.

Where Roads have been carried across abandoned Line of Railway by means of a Bridge or Tunnel, Company to make Compensation, in lieu of keeping Bridges, &c. in repair, except where the Road is restored to its former State.

22...Where the Line of any Railway so authorized to be abandoned shall have been wholly or partially laid out, and any Road shall have been carried across such Line of Railway by means of a Bridge or Tunnel over or under such Railway, which Bridge or Tunnel the Company to whom such Railway belonged would, in case the same had not been abandoned, have been liable to keep in repair, then in every such Case, except where such Bridge or Tunnel shall, with the Permission of the said Commissioners^a, be by such Company removed, and such Road restored to the like or an equally convenient and good State as the same was in before it was interfered with by the Makers of such Railway, to the Satisfaction (in case of Difference between such Company and the Owner or Persons having the Management of such Road) of the Commissioners of Railways^a, such Company shall pay to the Owner of such Road, if it be a private Road, or to the Trustees, Surveyors of Highways, or other Persons having the Management of such Road, if it be a Turnpike or other public Road, a Sum of Money, to be determined by Arbitration as after mentioned, in lieu and discharge of their Liability to keep such Bridge or Tunnel, and also the Roadway over the same, in repair.

Compensation to Trustees and Overseers of public Roads how to be applied.

23...Every Sum so to be paid as last aforesaid to such Trustees, Surveyors, or other Persons as aforesaid shall be by them forthwith paid over to the Treasurer of the County where the Bridge or Tunnel in respect of which such Sum was paid is situate, and shall be by him invested in Consolidated Bank Annuities or other Public Securities; and the Dividends or Income thereof shall, until Parliament shall otherwise provide, be applied in the Maintenance of the Bridge or Tunnel in respect whereof the same was paid, in such Manner as the Justices in Quarter Sessions having Jurisdiction where such Bridge or Tunnel is situate shall order.

^a See note ^c in p. 373.

...Every Sum so to be paid as last aforesaid in *Scotland* which Trustees or other Persons as aforesaid shall be by paid into Bank, and the Interest to arise thereon shall, Parliament shall otherwise provide, be applied in the tenance of the Bridge or Tunnel in respect whereof the was paid, in such Manner as the Sheriff of the County high such Bridge or Tunnel is situate, in case of any sulty arising, shall direct.

Application
of Monies
paid.

...The Amount of the Compensation so to be made in several Cases aforesaid shall be determined, in case of rence, by Arbitration, in the Manner provided by the ways Clauses Consolidation Act, 1845^a, or the Railways es Consolidation Act, *Scotland*, 1845^b, as the Case may re; and for that Purpose all the Clauses of the said ways Clauses Consolidation Acts with respect to the Set- ent of Disputes by Arbitration shall be deemed to be in- orated with this Act: Provided always, that no such way Company shall be liable to make any Compensation in ct of Damage alleged to have been sustained by reason of abandonment of the Railway or Part of the Railway, or the completion of any Contract of such Company in any of uses aforesaid, unless the Claim for such Compensation have been made within Six Months after the Publica- in the Gazette of the Notice of the Warrant for such idonment as herein-before provided.

Amount of
Compensa-
tion to be
settled by
Arbitration,
pursuant to
8 & 9 Vict.
c. 20, and
8 & 9 Vict.
c. 32.

Claims for
Compensa-
tion to be
made within
Six Months
after Publi-
cation of
Warrant
for Abandon-
ment.

. Provided also, and be it enacted, that the Authority aforesaid given for abandoning the making of any such way or Part of a Railway shall not prejudice or affect the t of the Owner or Occupier of any Lands to receive from Company Compensation for any Damage that may have occasioned by the Entry of such Company upon such s, for the Purpose of surveying and taking Levels, and obing or boring to ascertain the Nature of the Soil, or of ig out the Line of the Railway, pursuant to the Provi- for that Purpose in the Lands Clauses Consolidation Act, ^a, and the Lands Clauses Consolidation Act (*Scotland*), ^b, contained.

Company to
be still liable
for Damage
occasioned
by their
Entry on
Lands for
taking
Levels, &c.,
pursuant to
6 & 9 Vict.
c. 18, or
8 & 9 Vict.
c. 19.

... All the Lands acquired by such Company for the oces of the Railway or Part of Railway so authorized to

Lands pur-
chased by the
Railway

Vis. c. 20, § 126 et seq. (VII. p. 184, &c.)

c 9 Vis. c. 33, Scotch act: see observations in Introduction, as to Scotch acts.

Vis. c. 18, § 84 (p. 270.)

Company to
be sold with-
in a limited
Time.

he abandoned shall be sold by such Company within the Time limited or prescribed for that Purpose in the Warrant authorizing the Abandonment of such Railway; and if no Time be therein prescribed for that Purpose, then within Two Years from the Date of such Warrant, in the Manner prescribed by the said Lands Clauses Consolidation Acts with respect to the Sale of superfluous Lands^a; and for that Purpose all the Clauses of the said last-mentioned Acts with respect to the Lands acquired by the Promoters of the Undertaking under the Provisions of their special Act, but which are not required for the Purposes thereof^b, shall be deemed to be incorporated with this Act: Provided always, that the Offer to be made by the Railway Company pursuant to the said Acts^b to sell such Lands to the Person entitled to the Lands from which the same were severed shall be made at a Price or Sum not greater than the Price or Sum at which such Lands were purchased by such Company.

Where Part
of a Railway
is authorized
to be aban-
doned, the
Commis-
sioners may
require the
Capital to be
reduced.

28...When the said Commissioners of Railways^c, by any such Warrant as aforesaid, authorize the Abandonment of a Part only of the Railway of any Railway Company, they may, if they think fit, require that the Capital authorized to be raised by such Company in respect of such Railway, shall be reduced to such Extent and in such Manner as the said Commissioners think fit, and so that such Reduction do not bear a greater Proportion to the whole Capital so authorized to be raised than the Cost of the Part of the Railway so authorized to be abandoned would have borne to the Cost of the whole Railway; and they may also, if they think fit, in like Manner reduce the Amount which such Company are authorized to borrow on Mortgage or Bond, and every such Reduction shall be expressed in the said Warrant; and in every such Case, the Capital of such Company and their Power of borrowing Money shall be reduced and limited in conformity with the Directions for that Purpose contained in such Warrant; and such Company shall have all the same Powers for enforcing the Payment of Calls in respect of the Shares in the Capital when reduced in the Manner required by the said Commissioners, and for enforcing the Forfeiture of any such Shares in default of Payment of such Calls, as such Company would have had in respect of the original

^a 8 Vic. c. 18, § 127 *et seq.* (p. 290, &c.)

^b § 128 (p. 291.)

^c See note ^c in p. 373.

Capital of such Company if this Act had not been passed: provided always, that nothing herein contained shall authorize the said Company to reduce or interfere with any Amount of Capital paid up or called for before the Eleventh Day of February One thousand eight hundred and fifty, and entitled to any preferential or guaranteed Dividend or Interest.

29...After the granting of any such Warrant as aforesaid for the Abandonment of the whole Railway of any Railway Company, the Powers of such Company for the Construction, Maintenance, and Management of such Railway shall cease; and such Company shall continue to exist only for the Purpose of winding up their Affairs, and they shall accordingly, subject to the Provisions herein contained with respect to the Sale of Lands acquired by such Company for the Purposes of their Railway, proceed with all convenient Speed to collect and to convert into Money all their Property and Effects, and shall in the first place pay and satisfy all their Debts and Liabilities, and after full Payment and Satisfaction thereof shall distribute the surplus Funds among the Shareholders of the Company in proportion to their Shares and Interests therein; and for the Purposes aforesaid all the Powers of such Company shall continue in full Force and Effect, and when and so soon as the same shall have been fully accomplished such Company shall be dissolved, and cease to exist.

After Warrant for Abandonment of the whole Railway the Powers of the Company are to cease, except for winding up.

30...Notwithstanding the Provision in the Joint Stock Companies Winding-up Amendment Act, 1849, excepting Railway Companies incorporated by Act of Parliament from the Application of the Joint Stock Companies Winding-up Act, 1848, the said Two several Acts shall nevertheless apply to any Railway Company incorporated by Act of Parliament in respect of which an Order may have been made by the Court of Chancery for winding up the Affairs of such Company previous to the passing of the said Joint Stock Companies Winding-up Amendment Act, 1849, and the Proceedings for winding up the same shall proceed and be carried on under the said Joint Stock Companies Winding-up Act, 1848, and the said Joint Stock Companies Winding-up Amendment Act, 1849, or either of them.

Provisions of 11 & 12 Vict. c. 43, and 12 & 13 Vict. c. 106, to apply to Cases where Order of winding-up was made prior to passing of said Acts.

31...Where any such Warrant as aforesaid shall have been granted for the Abandonment of the whole Railway of any Railway Company in *England or Ireland*, any Shareholder of such

When Warrant has been granted for abandoning the whole

Railway,
Shareholders
may petition
for winding
up, under the
11 & 12 Vict.
c. 45, not-
withstanding
anything in
12 & 13 Vict.
c. 108.

Company may present a Petition under the Joint Stock Companies Winding-up Act, 1848, or any Act for the Amendment of such Act, for the winding up of the Affairs of such Company under the said Act; and for that Purpose the Railway Company whose Railway is so authorized to be abandoned shall, if the Court shall think fit so to order, (notwithstanding anything to the contrary thereof in the said Joint Stock Companies Winding-up Act, or in the Joint Stock Companies Winding-up Amendment Act, 1849,) be deemed to be a Company to which the said Act applies.

Court of Ses-
sion, upon
Petition, may
sequester
any Railway
Company for
the Aban-
donment of
which a War-
rant has been
granted.

32...Where any such Warrant as aforesaid shall have been for the Abandonment of the whole Railway of any Railway Company in *Scotland*, any Shareholder of such Company may present a Petition to the Court of Session, praying the said Court to sequester such Company, and it shall thereupon be lawful for the said Court to issue a Deliverance awarding Sequestration of such Company, and to appoint a Factor who shall take possession of and recover the Estate of such Company, and realise and manage the same, for the Purposes of this Act, and for winding up and distributing the same with due Regard to the Rights and Interests of the Creditors and Shareholders and of all others concerned therein.

Court of
Session to
establish
Rules for
Adjustment
of Claims.

2 & 3 Vict.
c. 41.

33...It shall be competent to the said Court to establish, by Acts of Sederunt to be passed by them, all such Rules and Regulations as may be necessary in relation to the summary Statement, Discussion, and Adjudication of all Claims at the Instance of Creditors, Shareholders, and other Parties against such Company, and by such Rules and Regulations to apply, as far as may be practicable and expedient, towards the Purposes of this Act, the Provisions of an Act passed in the Session of Parliament holden in the Second and Third Years of the Reign of Her present Majesty, intituled *An Act for Regulating the Sequestration of the Estates of Bankrupts in Scotland*; and it shall be competent to the said Court so also to establish all such other Rules and Regulations as may be necessary for carrying fully into effect the Purposes of this Act.

In case of
Petition for
winding up,
Landowners
are to be
deemed
Creditors in
respect of
the Compens-

34...In the event of the Affairs of any such Company being wound up under any such Petition, the Compensation herein-before directed to be given to the Owners and Occupiers of Lands and others in respect of the Damage sustained by them by reason of such Abandonment in the Cases herein-before mentioned, or by reason of the Non-completion of any such

act as aforesaid, or otherwise, shall be deemed a Demand made from, and, when ascertained in the Manner provided by this Act, a Debt due from, such Company, and the Party from whom such Compensation is claimed shall be deemed a Debtor," in *England or Ireland* within the Provisions of the Joint Stock Companies Winding-up Act, or in *Scotland* within the Provisions of the said recited Act of Second and Third Years of the Reign of Her present Majesty; and in case lands purchased by such Railway Company shall be sold by the Official Manager under the said Act, they shall be sold in the same manner and subject to the Provisions contained in this Act.

Provided always, and be it enacted, that this Act, or any Proceeding thereunder, shall not prejudice or affect any Action or Suit or other Proceeding at Law or in Equity commenced before the Eleventh Day of February One thousand eight hundred and fifty, or any Action or Suit brought in connection with and during the Dependence of and involving the same Matter with such Action or Suit, nor any Action, or other Proceeding against a Company which shall not have obtained a Warrant authorizing the Abandonment of the whole or Part of a Railway in respect of which such Action, or other Proceeding shall be instituted, unless such Company shall, within Three Days after Notice for that Purpose given by the Party suing them, give such Party Notice of their intention to apply for such Warrant, and shall obtain the same, and serve Notice thereof on such Party within Three calendar Months thereafter; but all such Actions and Suits and other Proceedings shall be proceeded with, and Judgments given, and Rules, Orders, and Decrees made therein shall be enforced, as if this Act had not been passed, save only that, after Notice given by the Company of their Intention to abandon as aforesaid, shall be suspended for Three calendar Months, if the Warrant be refused, or be not obtained within that Time.

Provided always, and be it enacted, that nothing in this Act contained shall extend or be construed to extend to authorize the Abandonment by any Company of any Railway or Portion of a Railway, or other Works, which such Company have agreed under its Corporate Seal to make and construct, or in pursuance of any Agreement entered into either with any Individual or with any other Company, unless such Individual or Company shall consent in Writing to such Abandonment.

Notice given
by this Act.

Act not to
affect Ac-
tions or Suits
commenced
before 11th
Feb. 1850.

Nothing
herein to
authorize
Abandon-
ment of any
Railway
agreed to be
constructed,
without
Consent.

Commissioners to report to Parliament where Abandonment authorized by them.

37...In each Case in which the said Commissioners^a authorize the Abandonment of the whole or a Portion of a Railway, they shall, within Ten Days after issuing their Warrant for that Purpose, if Parliament be then sitting, or if not, then as soon thereafter as Parliament meets, lay before both Houses of Parliament a Copy of every such Warrant, accompanied by such Report and Observations as shall in the Judgment of such Commissioners set forth and explain the Reasons for their Award and Warrant in every such Case as aforesaid.

Interpretation of Terms :

38...The following Words and Expressions in this Act shall have the Meanings hereby assigned to them, unless there be something in the Subject or Context repugnant to such Construction ; that is to say,

Number ;

Words importing the Singular Number only shall include the Plural Number, and Words importing the Plural Number only shall include also the Singular Number :

Gender ;

Words importing the Masculine Gender shall extend to Females :

“ Person ;”

The Word “ Person ” shall include Body Corporate :

“ Lands ;”

The Word “ Lands ” shall include Messuages, Tenements, and Hereditaments :

“ Railway ;”

The Word “ Railway ” shall include all Works, Buildings, and Undertakings authorized to be constructed or carried on in connexion with the Railway or belonging thereto.

“ Shares ;”

The Word “ Shares ” shall include Stock :

“ Month.”

The Word “ Month ” shall mean Calendar Month.

Short Title.

39...In citing this Act in other Acts of Parliament, and in legal and other Instruments and Proceedings, it shall be sufficient to use the Expression “ The Abandonment of Railways Act, 1850.”

SCHEDULE referred to by the foregoing Act^b.

(1.) Name of Railway.	(1.) Name of Shareholder.	(1.) No. and Amount of Shares or Stock held by him.	(2.) Whether assenting or dissenting.

(1.) The Secretary will insert these Particulars.

(2.) In this Column the Shareholder will write the Word “ assenting ” or “ dissenting,” as the Case may be, and sign his Name thereunder.

^a See note ^c in p. 373.

^b § 5 (p. 375.)

FORMS.

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FORMS.

The Forms of Books, &c., which are required by Statute to be kept or used, but for which no special forms are prescribed by it, may of course vary according to circumstances in the case of each Company. But the forms used should contain and set forth all the particulars required by the Act to be set forth in them.

Some Forms are added herein, which are not prescribed by Statute, but which may be found useful; as, for instance, Forms (No. 6 and No. 11) of Notice on receipt of Transfers, apprising the parties by whom the Transfers purport to be made, and thereby giving them an opportunity of checking irregular or fraudulent Transfers, if attempted to be made in their names.

No. 1.—Form of Register of Shareholders: 8 Vic. c. 16, § 9.

RAILWAY COMPANY.—REGISTER OF SHAREHOLDERS, on — th of —, 185—.

Name of Shareholder.	Description.	Address.	Original Shares.				Preference Shares.			
			No.	Numbers of Shares.		Amount of Subscription paid.	No.	Numbers of Shares.		Amount of Subscription paid.
				From	To			From	To	
Column 1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.

Common Seal of the — Company affixed at the Ordinary General Meeting of Shareholders, held at —, on — day of —, 185—.

L.S.
—, Chairman.

Observations on foregoing Form.

COLUMN 1.—The Names to be in the alphabetical order of surnames: § 9. In the case of Joint Shareholders, they should be placed in the alphabetical precedence of the first name (§ 78, 187.)

COLUMN 2.—The Profession, Occupation, or Business, where any, of the Shareholder, to be stated: or his personal addition, as Baronet, Esquire, Gentleman, Widow, Spinster, &c.

COLUMN 3.—A sufficient address for identification and for finding the party by post, to be entered.

COLUMNS 4 to 11.—To be used according to circumstances. If there be only ordinary or original shares, and no Preference Shares, columns 8 to 11 will not be required; and the headings "Original Shares" and "Preference Shares" can be altogether omitted, where there is only

one description of shares. If there be more descriptions of shares than these columns suffice for, additional columns can be used accordingly.

Columns 4 and 8 are for the aggregate number of the respective kinds of shares held by each proprietor, as 20, 50, &c. Columns 5 and 6,—9 and 10,—are for the numbers of the respective shares themselves; and can be filled either by entering the number of every share, or by entering the first and last number held by the proprietor, where they run in an uninterrupted sequence of numbers: thus, the entries in columns 4, 5, 6, may be 20, 121, 140, respectively, meaning 20 shares, from No. 121 to No. 140; and columns 8, 9, 10, may be filled in like manner, according to circumstances.

Columns 7 and 11 are for the amounts of Calls paid up in each case.

The Register is to be made up to one fortnight before each half-yearly ordinary meeting, and is to be sealed at such meeting; (§ 9, 17).

Working Register.

Subsidiary to this register, so made up to a specific date, and which cannot be altered after it is sealed, some other book or books must be kept, as a "Working Register," &c., in nearly similar form, for entering up from day to day, the changes by Transfer or Transmission of Shares, in the intervals between the half-yearly meetings.

Register of Stock.

The following is a corresponding form of Register where the Shares have been consolidated into Stock, under § 62 of the same act: and the foregoing observations apply generally, mutatis mutandis, to this form likewise.

No. 2.—Form of Register of Stockholders : 8 Vic. c. 16, § 63.

— RAILWAY COMPANY.—REGISTER OF HOLDERS OF CONSOLIDATED STOCK, on — th of —, 185—.

Name.	Description or Designation.	Address.	Amount of Stock.		
			Original Stock.	— Per Cent. Pre-ference Stock.	— Per Cent. Stock.
			£	£	£

Common Seal, &c. (L. S.)
See observations on Form No. 1.

No. 3.—Form of Shareholders Address Book :—
8 Vic. c. 16, § 10.

— RAILWAY COMPANY:—SHAREHOLDERS ADDRESS BOOK.

Name.	Description or Designation.	Place of Address.

The Shareholders Address Book may most conveniently be an Index-Book, with a sufficient number of leaves for each letter of the alphabet, giving space to admit of the list of Shareholders and their Addresses being kept always written up in the book.

The names should be entered in the alphabetical order of Surnames, as nearly as additions and alterations from time to time will admit. In the case of Corporations, the corporate name is to be entered (§ 10); and in the case of Joint Shareholders, they should be arranged according to the alphabetical precedence of the first name (§ 78, 137).

A sufficient description and address should be given for identification of the party, including his post town. In the case of Corporations, their place of business is to be entered (§ 10).

No. 4.—Form of Register of Transfers of Shares : 8 Vic. c. 16, § 15.

— RAILWAY COMPANY.—REGISTER OF TRANSFERS OF SHARES.

No. of Transfer.	Date of Registry.	Original Shares.		Preference Shares.		Date of Deed of Conveyance.	Transferor.			Transferee.			Observations.
		Total No. in transfer	Numbers of Shares.	Total No. in transfer	Numbers of Shares.		By whom transferred.	Residence.	Description.	To whom transferred.	Residence.	Description.	

See observations on Form No. 1.

No. 5.—Form of Register of Transfers of Stock :
8 Vic. c. 16, § 62.

The Form No. 4, for registering Transfers of Shares, may be adapted to the registry of Transfers of Stock, by a slight alteration from the "Numbers of Shares" to the "Amount of Stock;" and the Forms may be modified to suit the circumstances and requirements of different Companies:—(see Forms 1 and 2, and Observations thereon.)

No. 6.—Form of Notice of Receipt, for Registry, of a Transfer of Shares or Stock : addressed to the Person by whom the Transfer purports to be made, on receipt of same.

— RAILWAY COMPANY'S OFFICE,

—, —,
—, 185—.

SIR,—I have to inform you, that a Deed bearing date the — day of —, 185—, transferring from your name [Twenty Original Shares or Preference Shares, or £— of Stock, as the case may be,] in this Company, has this day been lodged in this Office for Registration.

Your obedient servant,

—, Secretary.

To —, —,
(the Transferor.)

^a Date of Deed of Transfer.

^b Ten, Twenty, or other number transferred.

^c Specify the numbers of the shares transferred.

^d Name.

^e Address.

^f Profession or Description, of

Transferor.

^g Name.

^h Address.

ⁱ Profession

or Des-

cription, of

Transferee.

^j Date of lodgment and registry of Transfer.

No. 7.—Form of Certificate of Registry of a Transfer of Shares : 8 Vic. c. 16, § 15.

— RAILWAY COMPANY.

SHARE TRANSFER CERTIFICATE.—No. —.

[Original or Preference — Per Cent. Shares, *as the case may be.*]

Examined and
Entered,
Transfer Clerk.

I hereby Certify, that a Deed of Conveyance bearing date the (^a) — day of —, in the Year of our Lord One Thousand Eight Hundred and Fifty—, of (^c) — [Original or Preference — Per Cent.] Shares in the — Railway Company, numbered (^e) —, from (^d) —, of (^e) —, (^f) —, to (^g) —, of (^h) —, (ⁱ) —, has been deposited in the Office of the said Company, and registered in their Books on the (^j) — day of —, 185—.

—, Secretary.

NOTE.—The Purchaser should be careful to receive the sealed Certificates of the Shares; and to see that the Numbers correspond with the above.

No. 8.—Forms of Certificates of Stock, or of Registry of a Transfer of Stock :—8 Vic. c. 16, § 62.

FORM OF STOCK CERTIFICATE.

No. —.

— RAILWAY COMPANY.

Compared,
Transfer Clerk.

This is to Certify, that —, of —, —, is the Proprietor of — Pounds, [Original or — Per Cent. Preference, &c., *as the case may be,*] Consolidated Stock of the — Railway Company, subject to the Regulations of the said Company.

Given under the Common Seal of the said Company, the — day of —, in the year of our Lord, 185—.

(L. S.)

By Order of the Board,

—, Secretary.

CERTIFICATE OF REGISTRY OF TRANSFER OF STOCK.—No. —.

— RAILWAY COMPANY.

^a State kind of Stock, where there are different classes. See notes on Form No. 7.

Examined and
Entered,
Transfer Clerk.

I hereby Certify, that a Deed of Conveyance bearing date the — day of —, in the Year of our Lord One Thousand Eight Hundred and Fifty—, of — Pounds [Original or — Preference, &c., *as the case may be,*] Consolidated Stock in the — Railway Company, from — to —, has been deposited in the Office of the said Company, and registered in their Books on the — day of —, 185—.

—, Secretary.

No. 9.—Forms of Declaration on Transmission of Shares by Death, or otherwise than by Transfer Deed :—8 Vic. c. 16, § 18, 19.

I —, of —, in the —, —, do solemnly and sincerely declare, that I am one of the Executors of —, late of —, aforesaid, —, deceased, who, at the time of his death hereinafter mentioned, was

I, a Proprietor of — Shares, in the — Company, numbered respectively —, and which said several Shares were then standing in — name in the books of the said Company. And I further solemnly and sincerely declare, that the said — duly made and published his last Will and Testament, bearing date the — day of —, One Thousand Eight Hundred and —, and thereby appointed —, Executors: and that the said — departed this life on or about the — day of —, One Thousand Eight Hundred and —, without revoking his said Will, and the same was duly proved by the said —, and Probate duly granted on the — day of —, One Thousand Eight Hundred and —, by the Court of —, and an office copy of the said Will was duly lodged, [and, in case of shares in an Irish Company held by a person who resided out of Ireland, an Irish Probate granted to the said — in respect of the said — Company's shares, on the — day of —, One Thousand Eight Hundred and —, at the — Office, No. 11, Henrietta-street, Dublin, or the District Registry Office at —, as the case may be:] and I further solemnly and sincerely declare, that I have been informed and believe that by the means aforesaid the said several Shares in the said — Company, have now become vested in the said —, all of whom are now living, as such Executors as aforesaid. And I make this solemn declaration, conscientiously believing the same to be true, and by virtue of the provisions of an Act made and passed in the Sixth year of the reign of his late Majesty King William the Fourth, intituled "An Act, &c." (*)

— (Signature.)

The above Declaration was made and subscribed by the before-named — at —, in the —, the — day of —, One Thousand Eight Hundred and —, before me. — (Signature.)

A Commissioner to administer Oaths in Chancery.

Another Form.

I, —, of —, —, do solemnly and sincerely declare, that I know —, of —, —, Administrator [or Executor] of the late —, of —, —, and that the said — is the person to whom administration [or Probate, &c.] to the said — was granted in the Court of —; and that I further declare that the said —, deceased, was the same person as described in the Books of the — Company, as Proprietor of — shares in the said Company, numbered —. And I make this solemn declaration, conscientiously believing the same to be true, and by virtue of the provisions of an Act made and passed in the Sixth Year of the reign of His late Majesty, intituled "An Act, &c." (*)

— (Signature.)

Declared before me at —, }
this — day of —, 18—, }

(Signature) —, J.P.

* 5 & 6 Wm. 4, c. 81, "An Act to repeal an Act of the present Session of Parliament, intituled (b) An Act for the more effectual Abolition of Oaths and Affirmations taken and made in various Departments of the State, and to substitute Declarations in lieu thereof, and for the more entire Suppression of voluntary and extra-judicial Oaths and Affidavits; and to make other Provisions for the Abolition of unnecessary Oaths." (b) 5 & 6 Wm. 4, c. 81.

No. 10.—Form of Register of Mortgages or Debenture Bonds,
— RAILWAY COMPANY.—REGISTER OF MORTGAGES AND

No. of Mortgage Deed or Bond.		Date of Deed.	Term for which issued.		Amount.		Rate of In- terest per cent.	To whom made.		
Under Act of 185—.	Under Act of 185—.		Years.	Date when Due.	Act, 185—.	Act, 185—.		Name.	Description.	Address.

Observations.

The foregoing form (No. 10) is adapted to the Registry of Bonds and of Transfers of them in one and the same book, so as to simplify and concentrate the registry, and in strict compliance with the Act, which requires in regard to a Transfer "an Entry or Memorial thereof to be made in the same manner as in the case of the original Mortgage," (§ 47).

But where the transactions are too extensive for this, the registry can be made in two books, one for the original bonds, and one for transfers, though this necessarily involves a repetition of some of the particulars, which must be entered in both books so as to identify the Bonds transferred.

A sufficient number of lines should be left for each Bond entered, to admit of transfers being entered after it.

The Columns for "Act, 185—," can be used to distinguish Bonds

Register of Mortgages and Bonds :—8 Vic. c. 16, § 45.

No. of Mort- gages Deed or Bond.		Date of Deed.	Amount.		Rate of Interest per cent.	Term for which issued.		To whom made.			References to Transfers.	Obser- vations.
Act, 185—.	Act, 185—.		Act, 185—.	Act, 185—.		Years.	Date when due.	Name.	Description.	Address.		

See preceding Observations.

and Memorials of Transfers thereof : 8 Vic. c. 16, § 45, 47.

BONDS, AND MEMORIAL OF TRANSFERS THEREOF.

Memorial of Transfers.						Observations.
No. of Transfer Deed.	Date of Deed.	Date of Registry.	To whom transferred.			
			Name.	Description.	Address.	

issued under different acts by which separate borrowing powers are given, and a sufficient number of columns can be used accordingly : but where there is only one such act, these headings need not be used and one column will suffice.

The following are forms for separate Registers of Bonds and of Transfers of same.

In the Column for Observations, an entry can be made that the bond is paid off and cancelled when such is the case : or in the following books, references from one transfer to another to connect all the transactions on any one bond together, where sufficient space may not have been left for their entry in one place.

An Alphabetical Index of names should be annexed to the respective books.

Register of Transfers of Mortgages and Bonds : 8 Vic. c. 16, § 47.

Transfer Deed.			No. of Mortgage Deed or Bond.	Amount.	From whom transferred.			To whom transferred.			Observations.
No.	Date.	Date of Registry.			Name.	Description.	Address.	Name.	Description.	Address.	

See preceding Observations.

No. 11.—Form of Notice of Receipt, for Registry, of a Transfer of Debenture or Mortgage Deed or Deeds ;—addressed to the Person by whom the Transfer purports to be made, on receipt of same.

— RAILWAY COMPANY'S OFFICE,

—, 185—.

SIR,—I have to inform you, that a Deed bearing date the — day of —, 185—, transferring from your name [One, Two, Five. or as the case may be,] Debentures of this Company, has this day been lodged in this office for Registration.

Your obedient servant,

—, Secretary.

To —, —,
(the Transferor.)

No. 12.—Form of Certificate of Registry of Transfer of a Debenture or Mortgage Deed.

— RAILWAY COMPANY.

MORTGAGE DEED TRANSFER CERTIFICATE.

I hereby Certify, that a Deed of Conveyance bearing date the ^(a) — day of —, in the year of our Lord One Thousand Eight Hundred and Fifty—, of ^(b) — Mortgage Deed[s] in the — Railway Company, numbered ^(c) —, from ^(d) —, of ^(e) —, ^(f) —, to ^(g) —, of ^(h) —, ⁽ⁱ⁾ —, has been deposited in the Office of the said Company, and registered in their Books on the ^(j) — day of —, 185—.

—, Secretary.

No. 13.—Form of Notice under the Carriers Act,
1 Wm. 4, c. 68, § 2.

— RAILWAY COMPANY.

NOTICE.

IN pursuance of an Act of Parliament passed in the 1st Year of the Reign of His Majesty King WILLIAM IV., Chap. 68, entitled "An Act for the more Effectual Protection of Mail Contractors, Stage Coach Proprietors, and other Common Carriers for Hire, against the Loss of or Injury to Parcels or Packages delivered to them for Conveyance or Custody, the Value and Contents of which shall not be declared to them by the Owners thereof,"—The — RAILWAY COMPANY HEREBY GIVE PUBLIC NOTICE, that they will not be liable for the Loss of or Injury

Date of Transfer Deed.
b One, Two, or other number of Mortgage Deeds transferred.
c The numbers of the several Mortgage Deeds.
d Name.
e Address.
f Profession or Description, of Transferor.
g Name.
h Address.
i Profession or Description, of Transferee.
j Date of lodgment and registry of Transfer.

Examined and Entered,

Transfer Clerk.

any Parcel, Package, or Passenger's Luggage, containing Gold or Silver Coin of this Realm or of any Foreign State; or any Gold or Silver in a manufactured or unmanufactured state; or any Precious Stones, Jewellery, Watches, Clocks, or Time-pieces of any description; Trinkets, Bills, Notes of the Governor and Company of the Bank of England, Scotland, and Ireland respectively, or of any other Bank in Great Britain or Ireland; Orders, Notes, or Securities for Payment of Money, English or Foreign; Stamps, Maps, Writings, Deeds, Paintings, Engravings, Pictures; Gold or Silver Plate, Plated Articles, Glass; China; Silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other Materials; Furs or Lace; or any of them,—when the Value of such Article or Articles, or Property aforesaid contained in such Parcel, Package, or Luggage, shall exceed the Sum of £10, unless at the Time of the Delivery thereof at the Company's Office, Warehouse, Receiving House, and to their Agent, Booking-Clerk, or other Jointed Servant, for the purpose of being carried or of accompanying the Person of any Passenger, the Value and Nature of such Article or Articles or Property, shall have been declared by the Person or Persons sending or delivering the same, and such increased Charge as hereinafter mentioned, or an Engagement to pay the same, accepted by the Person receiving such Parcel, Package, or Luggage. For the greater Risk and Care to be taken for the safe Conveyance of such Parcels, Packages, or Luggage, containing any of the Articles here specified, and declared at the Time of Booking to exceed the Sum of £10 in value, the increased Rates of Charge required to be added over and above the ordinary Rate of Charge for Carriage, are as follow:—

For any distances not exceeding 50 Miles, . . .	1d.	} For each Pound Sterling. in Value.
Exceeding 50 and not exceeding 75 Miles, . . .	1½d.	
Exceeding 75 and not exceeding 100 Miles, . . .	2d.	
Exceeding 100 and not exceeding 150 Miles, . . .	2½d.	

By Order of the Board,

—, —th of —, 185—.

—, Secretary.

No. 14.—Form of Notification under Cardwell Act,
17 & 18 Vic. c. 31, § 7.

— RAILWAY COMPANY.

NOTICE AS TO THE CONVEYANCE OF HORSES, CATTLE, &c.

WHEREAS by an Act of 17th and 18th of Victoria, Chapter 31, entitled "*An Act for the better Regulation of the Traffic on Railways and canals*," it is provided in section 7, in reference to the Liability of Railway and Canal Companies for Loss or Injury done to any Horse, Cattle, or other Animals, that no greater Damages shall be recovered for the Loss of, or for any Injury done to any of such Animals beyond the Sums hereinafter mentioned; that is to say.—For any Horse, £5; for any Neat Cattle, per head, £15; for any Sheep or Pigs, per

head, £2; unless the person sending or delivering the same to such Company shall at the time of such Delivery have declared them to be respectively of higher Value than as above mentioned; in which case it shall be lawful for such Company to demand and receive, by way of Compensation for the increased Risk and Care thereby occasioned, a reasonable Per-Centage upon the Excess of the Value so declared above the respective Sums so limited as aforesaid, and which shall be paid in addition to the ordinary Rate of Charge:—

NOTICE is therefore HEREBY GIVEN, that from and after the date hereof, a charge of — per Cent. above the ordinary Rate of Charge will be made by the — RAILWAY COMPANY, for the Conveyance of any Horses, Cattle, or other Animals, which shall be declared by the Senders, at the time of Booking, to be of greater Value than the said Sums mentioned in the Act aforesaid.

And NOTICE IS HEREBY FURTHER GIVEN, that all Declarations of the Value of such Animals, where such Value exceeds the said Sums respectively, must be signed by the Sender thereof, or by his Agent, before they can be received by the Company for transmission by the Railway.

By Order of the Board,

—, —th —, 185—.

—, Secretary.

GENERAL RAILWAY ACTS

OF

1859 AND 1860,

AND THE

TRAMWAYS ACT FOR IRELAND;

WITH

PREFACE, NOTES, AND INDEX, &c.

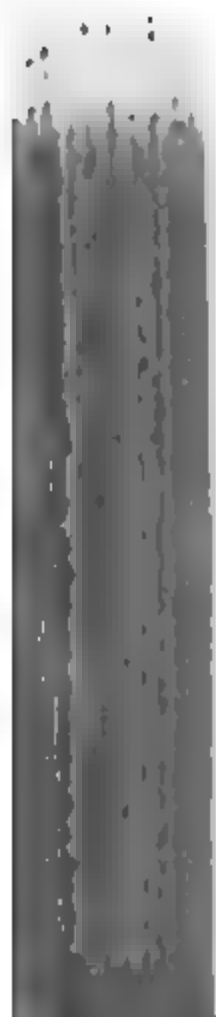


GENERAL RAILWAY ACTS
OF
1859 AND 1860,
AND THE
TRAMWAYS ACT FOR IRELAND;
WITH
PREFACE, NOTES, AND INDEX, &c. :
BEING A
SUPPLEMENT
TO THE
“Hand-Book of Railway Law,”
WHICH CONTAINS ALSO THE
ACTS INCORPORATED WITH THE TRAMWAYS ACT.

By ARTHUR MOORE, Esq.,
SECRETARY OF THE
DUBLIN, WICKLOW, AND WEXFORD, AND DUBLIN AND KINGSTOWN RAILWAYS;
Editor of “A Hand-Book of Railway Law, &c., to 1858 inclusive.”

LONDON :
W. H. SMITH & SON, 186, STRAND ;
AND 21, SACKVILLE-STREET, DUBLIN ;
BRADSHAW AND BLACKLOCK, MANCHESTER.

1860.



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P R E F A C E.

Since the "Hand-Book of Railway Law" was first published, containing the general Railway Acts and statutes connected with them, down to 1858 inclusive, some further acts have been passed, which are here printed as a Supplement in a second edition of that volume. Contents and arrangement of Supplement.

The Supplement containing these additional statutes is so arranged that it may likewise be obtained separately, for the convenience of those who already have the original volume, so that the Supplement may be added to it, and the whole collection of Railway Acts to 1860 inclusive may thus be placed together.

Both in the Second Edition of this volume and in the separate Supplement to the first, the Numbers prefixed to the new Acts, and the numbering of the Pages, are in continuation of the series in the original volume, so as to avoid confusion in the references in each and both of them.

Of the statutes contained in the Supplement, three apply to the whole of the United Kingdom (the Arbitration Act, the Parliamentary Trains Act, and the Lands Clauses Amendment Act); and the remainder to Ireland alone, (the Irish Railway Lands Amendment Act, the Irish Clearing House Act, and the Tramways Act, with the Preliminary Inquiries Act as connected with the latter.) Application of Acts.

The first-named act was promoted and supported by the Railway Companies Association, with a view "to enable Railway Companies to settle their Differences with other Companies by Arbitration," through the simple and effective machinery provided by its provisions. Arbitration Act.

The act for placing the Irish Railway Clearing House, and Irish Clearing House Act.

legal proceedings by or against it, under statutory regulation, —technically a special or “private Act,”—has gone somewhat beyond this, its immediate and legitimate object, by also authorizing a system of quasi arbitration amongst Railways and other Carriers in Ireland. This private act, in case of disputes between Railway Companies and others engaged as Carriers, in Ireland, enables the “parties” (if they think fit to resort to this tribunal rather than to an Arbitrator or Arbitrators appointed by themselves,) to refer questions in dispute between them to the decision of the Committee of Management of the Irish Clearing House, or of “any” persons to be appointed by that Committee. No similar provision is contained in the act of the English Clearing House, which is confined to the ordinary purposes of such an establishment. The somewhat indistinct and less simple provision in the Irish Act, does not, however, in any way supersede or interfere with the provisions of the Railways Arbitration Act of 1859,—a public and general act for the United Kingdom,—which remains in full force and unaffected by the local or private act relating to the Clearing House for Ireland ; so that proceedings in such cases may be had by Railway Companies in Ireland under either of these acts, so far as the latter can be carried into effect in this respect.

Lists of Parties to Clearing Houses.

Lists, corrected to the present time, of Companies associated in the Clearing House system in England and in Ireland respectively, are also added in the Supplement.

Parliamentary Trains Act.

The act of 1858, regulating the minimum charge for short journeys under a mile, or for fractions of miles, by Parliamentary Trains, is now renewed and made perpetual, the temporary act of 1858 having been passed for one year and a session only. The Irish Railways Act of 1851—mainly relating to the taking of Lands for Railways in Ireland,—which was also a temporary act, continued from time to time, has

Preface.

likewise been renewed, with amendments, and as amended is now made perpetual.

The act on a kindred subject, "to facilitate Internal Communication in Ireland by means of Tramroads or Tramways," though not a Railway Act, has been inserted in an Appendix, as its provisions largely refer to the general Railway Acts already contained in the volume of the "Hand-Book of Railway Law," and some of its provisions directly concern Railway Companies. All the acts incorporated with the Tramways Act, or made applicable to it, will be found in the Hand-Book and Supplement.

Irish Tramways Act.

It may be convenient to point out here such of the provisions of this act as appear more directly to concern Railways.

Provisions of Tramways Act in reference to Railways.

The first section contains the following proviso:—"Provided always, that it shall not be competent to make Application for a Tramway or Tramways under the provisions of this act, to unite Places between which statutory powers for making a Railway or Railways for directly connecting the same, shall have been granted and be in force."—§ 1 of 23 & 24 Vic., c. 152, "*the Tramways (Ireland) Act, 1860.*"

It provides also in § 5, that on the application of the Promoters of a Tramway to the Grand Jury for their approval of such Tramway, "the Grand Jury....shall hear in Opposition to the application any Owner, Lessee, or Occupier, of any lands proposed to be taken for the purposes of the undertaking or alleged to be injuriously affected thereby, and any Railway or other Company or Person desiring to be heard in Opposition on the Ground of Competition, or any Part of whose Rails, Trams, Stations, Works, or Accommodations is proposed to be taken, or in any manner used or interfered with, for the purposes of the undertaking, and the Inhabitants of any Town, Place, or District, alleged to be injuriously affected by the undertaking." And a further Appeal against the Tramway is given in certain cases, to the Lord Lieutenant in

Council, under the following additional provision in the same section :—"and in all cases where the proposed undertaking is provisionally approved of by any Grand Jury or Grand Juries, it shall be lawful for any Railway Company or Owner of Land who may have opposed the application for the same, to appeal against any such provisional approval to the Lord Lieutenant in Council, who shall, as soon as may be, inquire into the grounds of such provisional approval, and allow or disallow the appeal."—*Tramways Act*, § 5.

And under § 9, there is to be a public inquiry by the Board of Works into the merits of any proposed Tramway not previously disapproved as above: and "the Board of Works shall hear in Opposition to the Undertaking any such Owner, Lessee, Occupier, Company, Person, or Inhabitants, as is or are entitled to be heard under the provisions of this act before a Grand Jury:" and the Board of Works may examine "the Witnesses for any such Company and for the Promoters, on oath or otherwise."—*Tramways Act*, § 9 and Sched. A, Part V.

Again, under § 10 and § 12 of the same act, a further right of appeal is given at subsequent stages, both to the Grand Jury, who, after considering reports from the Board of Works and County Surveyor, and before "definitively approving or disapproving" the Tramway, "shall hear in Opposition to the Application any such Owner, Lessee, Occupier, Company, Person, or Inhabitants, as aforesaid"—(§ 10); and also again to the Lord Lieutenant in Council, who "shall, as far as may be requisite, take into consideration all such Reports and Documents and other Things relative to the Undertaking, as were before the Grand Jury whose disapproval is appealed from, and shall hear in Opposition to the appeal any such Owner, Lessee, Occupier, Company, Person, or Inhabitants, as aforesaid"—(§ 12).

And after the apparently final sanction of the Tramway by an Order in Council, "the Order shall have no effect whatever, until confirmation of such Order in Council by Act of Parlia-

ment," for procuring which, steps are to be taken by the Lord Lieutenant in Council, (§ 14).

These provisions appear to afford ample opportunities for "any Railway or other Company or Person desiring to be heard in Opposition to a Tramway on the ground of Competition," as expressed in the act itself, or "any part of whose rails or works, &c., is proposed to be taken, used, or interfered with;" and also for their being heard in opposition to the rejection of the proposal for a Tramway.

It is, however, to be feared, that the involved and complicated provisions of this act in connection with those interlaced with it, will render it difficult to be brought into practical operation in its present form; while its procedure,—(commencing with the Notice by advertisement in *April or May*, and followed by deposit of maps, plans, &c. with the various local authorities; notices to owners, lessees, and occupiers of lands; deposit of a petition or memorial to Grand Jury for a Tramway, Estimate, and Lists of Owners, &c.;—and then proceeding to reports from the County Surveyors, and preliminary inquiries, and hearing of opponents before the Grand Juries of the several counties through which it may run, at the ensuing *Summer Assizes*; appeals to the Lord Lieutenant in Council against either approval or disapproval by any Grand Jury, and inquiry by the Lord Lieutenant in Council;—followed, on provisional approval, by further deposit of plans, &c., with the Board of Works, and further public inquiry, hearing of parties for and against, taking of evidences, and report by them; and further report by County Surveyor on the report of the Board of Works; and further investigation and hearing of parties by the Grand Jury at the ensuing *Spring Assizes* for definitive approval or disapproval,—the project being thus already brought into the second year of its preliminary proceedings only; and the proceedings before Grand Juries to be taken in every county through which the Tramway may run;—further appeal to Lord Lieutenant in Council against

Intricacy,
dilatatoriness,
and expense
of procedure,
under Tram-
ways Act.

such approval or disapproval, and further hearing of parties ; and on further approval, an Order in Council may then at last be made and issued authorizing the construction of the Tramway,—but still without effect ; for, after all, “ the Lord Lieutenant in Council shall, as soon as conveniently may be, procure all necessary steps to be taken for the Confirmation of such Order in Council by Act of Parliament ; and until such Confirmation, the Order shall have no effect whatever : ” the Bill for such Act,—copies of the Order in Council being first deposited in both Houses of Parliament,—to be introduced “ on or before the *First of June*, ”—but whether in the second year of the preliminary proceedings, as it cannot be in the first, or what subsequent year after the previous initiatory proceedings, does not appear ;—the procedure of this attempt to localize the preliminary inquiries and authorization of Tramways, appears so cumbrous and dilatory, and must necessarily be attended with so much of costs, that it may well be suggested whether it would not have been preferable, in respect to time, expense, and trouble, independently of other considerations, to have provided, as in other cases, for applying to Parliament direct, and in the first instance instead of the last, where, of course, the Bill will still be open to petition, objection, and discussion at its various stages in both Houses.

ARTHUR MOORE.

*Monkstown Lodge, Co. Dublin,
September, 1860.*

RAILWAY ACTS, &c. SUPPLEMENT.

[NOTE.—The Numbers herein prefixed to the Acts, as XXXVI, &c., and the Numbering of the Pages, are in continuation of the series in the “Hand-book of Railway Law.”]

XXXVI.—RAILWAY COMPANIES ARBITRATION ACT.

22 & 23 VICT., CAP. 59.

An Act to enable Railway Companies to settle their Differences with other Companies by Arbitration.

[13th August, 1859.]

FOR the better providing for the Settlement by Arbitration of Matters in which Railway Companies in the United Kingdom are mutually interested, be it enacted *by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same^a*, as follows; that is to say,—

1. This Act may, for all Purposes, be cited as^b “Railway Companies Arbitration Act, 1859;” and the Expression “Railway Companies” in this Act extends to and includes all Persons, being the Owners or Lessees of,

Short Title.

“Railway Companies,” includes Owners, Lessees, or Contractors for working Railway.

^a For the sake of brevity, the words “by the Queen's Most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same,” which are used at the commencement of every statute, will not be repeated in these pages, in the acts following this. The place of these words will be indicated by the marks . . . at the commencement of each act.

^b Sic. The ?

and all Contractors working any Railway upon which Steam Power is used.

Companies
may refer
Matters to
Arbitration;

within pre-
scribed
powers.

Power to
alter or re-
voke Agree-
ment for
Reference.

Reference or
Agreement
binding, and
to be carried
into effect.

Single Arbi-
trator, if so
agreed :
Or one Arbi-

2. Any Two or more Railway Companies, whether already or hereafter incorporated (in this Act called "the Companies"), from Time to Time, by Writing under their respective Common Seals, may agree to refer and may refer to Arbitration, in accordance with this Act^a, any then existing or future Differences, Questions, or other Matters whatsoever in which they then are or thereafter shall be mutually interested, and which they might lawfully settle or dispose of by Agreement between themselves; and may delegate to the Person or Persons to whom the Reference is made, any Power to determine all or any of the Terms of any Contract to be made between the Companies which the Directors of the Companies respectively might lawfully delegate to any Committees of themselves respectively^b.

3. The Companies jointly, but not otherwise, from Time to Time, by Writing under their respective Common Seals, may add to, alter, or revoke any Agreement for Reference in accordance with this Act, theretofore entered into between the Companies, or any of the Terms, Conditions, or Stipulations thereof.

4. Every Reference or Agreement in accordance with this Act, except so far as it is from Time to Time revoked or modified in accordance with this Act^c, shall bind the Companies, and may and shall be carried into full Effect.

5. Where the Companies agree, the Reference shall be made to a single Arbitrator.

6. Except where the Companies agree that the Refer-

^a In § 33 *et seq.* of the Irish Railway Clearing Act (23 Vic. c. xxix, 1860.) further provision is made, in regard to Ireland, for referring differences between Railway Companies and other parties in Ireland, being Carriers, to the decision of the Irish Clearing House or persons appointed by them:—*Supplement XL*, and notes on § 33 of the act, p. 428-9.

^b For general provisions as to appointment and delegation of powers to Committees, see Companies Clauses Act, 1845, § 95 *et seq.*: (*Hand-book*, VI, 95-99, p. 93 *et seq.*)

^c § 3.

Reference shall be made to a single Arbitrator, the Reference shall be made^a as follows; to wit,

Arbitrator for each Company.

Where there are Two Companies, the Reference shall be made to Two Arbitrators :

Where there are Three or more Companies, the Reference shall be made^a to so many Arbitrators as there are Companies.^b

7. Where there are to be Two or more Arbitrators, every Company shall by Writing under their Common Seal appoint One of the Arbitrators, and shall give Notice in Writing thereof to the other Company or Companies.

Appointment of Arbitrators; and Notice thereof.

8. Where there are to be Two or more Arbitrators, if any of the Companies fail to appoint an Arbitrator within Fourteen Days after being thereunto requested in Writing by the other Company, or by the other Companies or any of them, then, on the Application of the Companies or any of them, the Board of Trade, instead of the Company so failing to appoint an Arbitrator, may appoint an Arbitrator; and the Arbitrator so appointed shall, for the Purposes of this Act, be deemed to be appointed by the Company so failing.

Appointment of Arbitrator by Board of Trade, on any Company failing to appoint.

9. When the Reference is made to Two or more Arbitrators, if, before the Matters referred to them are determined, any Arbitrator dies, or becomes incapable or unfit, or for Seven consecutive Days fails to act as Arbitrator, the Company by which he was appointed^c shall by Writing under their Common Seal appoint an Arbitrator in his Place.

On death, &c., or failure to act, new Arbitrators to be appointed by Companies :

10. Where the Company by which an Arbitrator ought to be appointed in the Place of the Arbitrator so deceased, incapable, unfit, or failing to act, fail to make the Appointment within Fourteen Days after being thereunto requested in Writing by the other Company

Or by Board of Trade on Companies failing to fill up Vacancies.

^a The words here printed in italic type appear mere surplusage, as the section would convey exactly the same meaning without them.

^b And under § 12, the arbitrators are to appoint an Umpire before entering on the arbitration.

^c Or where the previous arbitrator had been appointed by the Board of Trade : see provision at close of § 8, 10.

or by the other Companies or any of them, then, on the Application of the Companies or any of them, the Board of Trade may appoint an Arbitrator; and the Arbitrator so appointed by the Board of Trade shall, for the Purposes of this Act, be deemed to be appointed by the Company so failing.

Appoint-
ment of
Arbitrator
not revo-
cable, with-
out consent
of Com-
panies.

Umpire to
be appointed
by Arbi-
trators,
before pro-
ceeding in
the Arbitra-
tion :

Or by Board
of Trade, on
failure of
appointment
by Arbitra-
tors.

11. When any Appointment of an Arbitrator is made, the Company making the Appointment shall have no Power to revoke the Appointment, without the previous Consent in Writing of the other Company or every other Company in Writing under their Common Seal.

12. Where Two or more Arbitrators are appointed^a, they shall, before entering on the Business of the Reference, appoint by Writing under their Hands an impartial and qualified Person to be their Umpire.

13. If the Arbitrators do not appoint an Umpire within Seven Days after the Reference is made to the Arbitrators, then, on the Application of the Companies or any of them, the Board of Trade may appoint an Umpire; and the Umpire so appointed shall, for the Purposes of this Act, be deemed to be appointed by the Arbitrators.

On death,
&c., or failure
to act, new
Umpire to be
appointed by
Arbitrators :

Or by Board
of Trade, on
Arbitrators
failing to fill
up Vacancy.

14. Where Two or more Arbitrators are appointed^a, if, before the Matters referred to them are determined, their Umpire^b dies, or becomes incapable or unfit, or for Seven consecutive Days fails to act as Umpire, the Arbitrators shall by Writing under their Hands appoint an impartial and qualified Person to be their Umpire in his Place.

15. If the Arbitrators fail to appoint an Umpire within Seven Days after Notice in Writing to them of the Decease, Incapacity, Unfitness, or Failure to act, of their Umpire, then, on the Application of the Companies or any of them, the Board of Trade may appoint an Umpire; and the Umpire so appointed shall for the Purposes of this Act be deemed to be appointed by the Arbitrators so failing.

Succeeding
Arbitrators

16. Every Arbitrator appointed in the Place of a pre-

^a § 5, 6.

^b Or the Umpire appointed by Board of Trade; § 13, 15.

Arbitrator, and every Umpire appointed in the place of a preceding Umpire, shall respectively have the like Powers and Authorities as his respective Predecessor.

and Umpires to have Powers of Predecessors.

17. Where there are Two or more Arbitrators*, if they do not, within such a Time as the Companies agree on,—or, failing such Agreement, within Thirty Days next after the Reference is made to the Arbitrators,—agree on their Award thereon, then the Matters referred to them, or such of those Matters as are not then determined, shall stand referred to their Umpire.

Reference to Umpire, where Arbitrators do not make award in 30 days or other specified time.

18. The Arbitrator and the Arbitrators*, and the Umpire, respectively, may call for the Production of any Documents or Evidence in the Possession or Power of the Companies respectively, or which they respectively can produce, and which the Arbitrator or the Arbitrators*, or the Umpire, shall think necessary for determining the Matters referred; and may examine the Witnesses of the Companies respectively on Oath, and may administer the requisite Oath; and in Scotland may grant Diligence for the Recovery of the Documents or Evidence, and for citing Witnesses, and on Application to the Lord Ordinary he may issue Letters of Supplement or other necessary Writs in support of the Diligence.

Evidence: Arbitrators and Umpires may call for Documents, &c., and examine Witnesses on Oath.

19. Except where and as the Companies otherwise agree, the Arbitrator and the Arbitrators*, and the Umpire, respectively, may proceed in the Business of the Reference in such Manner as he and they respectively shall think fit.

Mode of Procedure in the Arbitration.

20. The Arbitrator and the Arbitrators*, and the Umpire, respectively, may proceed in the Absence of all or any of the Companies, in every Case in which, after giving Notice in that Behalf to the Companies respectively, the Arbitrator or the Arbitrators, or the Umpire shall think fit so to proceed.

Arbitration may proceed in Absence of Companies, after Notice given to them.

21. The Arbitrator and the Arbitrators*, and the

Award in parts, or

several
Awards may
be made.

Umpire, respectively, may, if he and they respectively think fit, make several Awards, each on Part of the Matters referred, instead of One Award on all the Matters referred; and every such Award on Part of the Matters shall, for such Time as shall be stated in the Award, the same being such as shall have been specified in the Agreement for Arbitration,—or in the event of no Time having been so specified, for any Time which the Arbitrator may be legally entitled to fix,—be binding as to all the Matters to which it extends, and as if the Matters awarded on were all the Matters referred; and that, notwithstanding the other Matters or any of them be not then or thereafter awarded on.

Awards
made within
30 days or
other time
limited, to
be conclusive
and binding:

22. The Award of the Arbitrator or of the Arbitrators^a, or of the Umpire, if made in Writing under his or their respective Hand or Hands, and ready to be delivered to the Companies within such a Time as the Companies agree on,—or, failing such Agreement, within Thirty Days next after the Matters in Difference are referred to (as the Case may be) the Arbitrator or the Arbitrators^a, or the Umpire,—shall be binding and conclusive on all the Companies.

But Umpire
may extend
the Period
for making
his Award.

23. Provided always, That (except where and as the Companies otherwise agree) the Umpire, from Time to Time, by Writing under his Hand, may extend the Period within which his Award is to be made; and if it be made and ready to be delivered within the extended Time, it shall be as valid and effectual as if made within the prescribed Period.

Awards not
to be set
aside for In-
formality.

24. No Award made on any Arbitration in accordance with this Act shall be set aside for any Irregularity or Informality.

Awards to be
acted upon,
unless other-
wise agreed
by the Com-
panies.

25. Except only so far as the Companies bound by any Award in accordance with this Act from Time to Time otherwise agree, all Things by every Award in accordance with this Act lawfully required to be done,

omitted, or suffered, shall be done, omitted, or suffered accordingly.

26. Full Effect shall be given by all the Superior Courts of Law and Equity in the United Kingdom, according to their respective Jurisdiction, and by the Companies respectively, and otherwise, to all Agreements, References, Arbitrations, and Awards in accordance with this Act; and the Performance or Observance thereof may, where the Courts think fit, be compelled by Distress infinite on the Property of the Companies respectively, or by any other Process against the Companies respectively or their respective Property that the Courts or any Judge thereof shall direct and where requisite frame for the Purpose.

Courts to give effect to Agreements, References, Arbitrations, and Awards.

Modes of Enforcement.

27. Except where and as the Companies otherwise agree, the Costs of and attending the Arbitration and the Award shall be in the Discretion of the Arbitrator and the Arbitrators^a, and the Umpire respectively.

Costs of Arbitration, at Discretion of Arbitrators or Umpire, unless otherwise agreed.

28. Except where and as the Companies otherwise agree, and if and so far as the Award does not otherwise determine, the Costs of and attending the Arbitration and the Award shall be borne and paid by the Companies in equal Shares, and in other respects the Companies shall bear their own respective Costs.

Apportionment of Costs, where not otherwise determined.

29. The Submission to any Arbitration in accordance with this Act may at any Time be made a Rule of any of Her Majesty's Superior Courts of Record at Westminster, or, as the Case may be, at Dublin, on the Application of any Party interested; and the Court may remit the Matter to the Arbitrator or to the Arbitrators^a, or to the Umpire, with any Directions the Court think fit.

Submission to Arbitration may be made a Rule of Court, on Application of a Party to it.

^a § 5, 6.

XXXVII.—CHEAP TRAINS AND CANALS ACT RENEWAL.

23 & 24 VICT., CAP. 41.

An Act to make perpetual an Act of the Twenty-first and Twenty-second Years of Her present Majesty^a, to amend the Law relating to Cheap Trains and to restrain the Exercise of certain Powers by Canal Companies being also Railway Companies.

[23rd July, 1860.]

21 & 22 Vict.
c. 75.

WHEREAS an Act was passed in the Session of Parliament held in the Twenty-first and Twenty-second Years of the Reign of Her present Majesty, intituled *An Act to amend the Law relating to Cheap Trains, and to restrain the Exercise of certain Powers by Canal Companies being also Railway Companies*^a: And whereas the said Act will expire at the End of the present Session of Parliament, and it is expedient to make the said Act perpetual: Be it therefore enacted^b...as follows; that is to say,

Act perpetual

1. That the said recited Act^a shall be perpetual.

XXXVIII.—RAILWAY LANDS, IRELAND, 1860.

23 & 24 VICT. CAP. 97.

An Act for amending and making perpetual the Railways Act, Ireland, 1851.^c

[13th August, 1860.]

14 & 15 Vict.
c. 70.

WHEREAS it is expedient that "The Railways Act, (Ireland), 1851^c," should be amended as herein-after

^a The act 21 & 22 Vic. c. 75, was passed in 1858 for one year and a session:—for provisions of the act, see *Hand-book*, XVI, p. 224.

^b See note ^a, in page 401.

^c 14 & 15 Vic. c. 70. That act was passed in 1851, for five years and a ses-

provided, and that with such Amendments the said Act should be made perpetual: Be it therefore enacted^a...as follows:

1. The Words "Twenty-one" shall be substituted for the Words "Thirty-one" in the Eighth Section of the said Act^b, and the Word "Fourteen" shall be substituted for the Words "Twenty-one" in the Ninth Section of the same Act^c.

Periods of Notices shortened.

2. The Twenty-second Section of the said Act^d is hereby repealed; and in lieu thereof be it enacted, That when the Company are desirous, for the Purposes of their Works, of entering upon any Lands before they would be entitled to enter thereon under the Provisions in the said Act^e, as amended by this Act, it shall be lawful for the Company, at any Time after the Arbitrator shall have framed his Draft Award, upon depositing in the Bank of Ireland as herein directed such Sum or Sums as the Arbitrator may certify to be in his Opinion the proper Amount to be so deposited, in respect of any Lands authorized to be purchased or taken by the Company and mentioned in such Draft Award, or of the several Interests in such Lands in respect of which no Agreement shall have been come to between the Company and the Persons entitled thereto, to enter upon and use such Lands for the Purpose of the Railway and Works of the Company; and the Arbitrator shall, upon the Request of the Company, at any Time after he shall have framed such Draft Award, certify under his Hand the Sum or Sums which in his Opinion should be so

After Deposit of Draft Award, Company may enter on Lands, upon Deposit of such Amount as Arbitrator may think fit.

sion, and would have expired in 1857, but was renewed and continued in force from time to time by 19 & 20 Vic. c. 72, passed in 1856, and 21 & 22 Vic. c. 34, passed in 1858. By the present act, it is amended, and made perpetual as so amended. For the previous acts, see *Hand-book*, XX, XXI, XXII, pages 301, 317.

^a See note ^a in page 401.

^b 14 & 15 Vic. c. 70, § 8; *Hand-book*, p. 305. The "thirty-one days" in the sixth section of the act referred to (p. 307,) remains unaltered.

^c *Ibid*, § 9; *Hand-book*, p. 306 : and see preceding note ^b.

^d *Ibid*, § 22; *Hand-book*, p. 311-2.

^e Provisions as to entry on lands, 14 & 15 Vic. c. 70, § 16, 22:—*Hand-book*, p. 309, 311.

But proceed-
ings on
Award to be
completed as
in other
cases.

Company to
pay Interest
from Time of
Entry.

Interest re-
coverable like
Principal.

Mode of
Deposit.

deposited by the Company in respect of any Lands mentioned in such Draft Award, or of any such Interests therein as aforesaid, before they enter upon or use the same as aforesaid; and the Sum or Sums to be so certified shall be the Sum or Sums set forth in such Draft Award as payable by the Company in respect of such Lands, or of such Interests in such Lands in respect of which no Agreement shall have been come to between the Company and the Persons entitled thereto, or such greater Amounts as to the Arbitrator under the Circumstances of the Case shall seem proper; and notwithstanding such Entry as aforesaid, all Proceedings for and in relation to the Completion of the said Award, the Delivery of Certificates, and other Proceedings under the said Act^a as amended by this Act, and under this Act, shall be had, and Payments made as if such Entry and Deposit had not been made: Provided that the Company shall, where they enter upon any Lands by virtue of this present Provision, pay Interest at the Rate of Five Pounds per Centum per Annum upon the Purchase and Compensation Money payable by them in respect of any Lands so entered upon, from the Time of their Entry until the Time of the Payment of such Purchase Money and Compensation to the Person entitled thereto, —or where, under the Provisions of the said Act as amended by this Act, such Purchase Money or Compensation is required to be paid into the said Bank, then until the same with such Interest is paid into such Bank accordingly; and where, under this Provision, Interest is payable on any Purchase or Compensation Money, the Certificate to be delivered by the Company^b in respect thereof shall specify that Interest is so payable, and the same shall be recoverable in like Manner as the Principal Money mentioned in such Certificate.

3. The Twenty-third Section of the said Act^c is

^a 14 & 15 Vic. c. 70 :—*Hand-book*, XX.

^b § 14 of 14 & 15 Vic. c. 70; p. 308.

^c § 23 of 14 & 15 Vic. c. 70;—p. 312.

XXVIII. [3, 4.] 23 & 24 Vict. c. 97 : (1860.)

herby repealed; and in lieu thereof be it enacted, That the Sum or Sums to be deposited as aforesaid in respect of any Lands, or any Interests in any Lands, shall be paid into the Bank of Ireland in the Name and with the Privity of the Accountant General of the Court of Chancery in Ireland, to be placed to his Account there, to the Credit of the Company (describing the Company by its proper Name), in the Matter of "The Railways Act (Ireland), 1851," and of the respective Owners of the Lands, or of the Interests in Lands, in respect of which the same is or are paid as aforesaid, subject to the Control or Disposition of the said Court; and upon such Deposit, the Cashier of the said Bank shall give to the Company, or the Party paying in such Money by their Direction, a Receipt for the same.

4. The Twenty-fourth Section of the said Act^a is hereby repealed; and in lieu thereof be it enacted, That the Sum or Sums of Money so deposited as last aforesaid shall remain in the Bank, by way of Security to the Parties respectively in respect of whose Interests in the Lands which shall so have been entered upon such Sum or Sums shall have been deposited, for the Payment of the Money to become payable by the Company to such Parties respectively, for their respective Interests in such Lands under the Award of the Arbitrator; and the Money so deposited may, on Application by Petition of the Company, be ordered to be invested in Bank Annuities or Government Securities, and accumulated; and upon such Payment as aforesaid by the Company, it shall be lawful for the Court of Chancery in Ireland, upon a like Application, to order the Money so deposited, or the Funds in which the same shall have been invested, together with the Accumulation thereof, to be repaid or transferred to the Company; or, in default of such Payment as aforesaid by the Company, it shall be lawful for the said Court to order the same to be applied, in

Deposit
remains
Security,
and to
be applied
under
direction of
Court of
Chancery

^a § 24 of 14 & 15 Vict. c. 70; *Hand-book*, p. 312.

such Manner as it shall think fit, for the Benefit of the Parties for whose Security the same shall so have been deposited.

Apportionment of Rentcharge, &c., where Part only of the Land charged is required.

5. If Part only of the Lands charged with any Rentcharge or Fee-farm Rent be required to be taken for the Purposes of the Special Act^a, the Apportionment of any such Rent or Rentcharge may be settled by Agreement between the Party entitled to the same and the Owner of the Lands on the one Part, and the Promoters of the Undertaking on the other Part; and if such Apportionment be not settled by Agreement, the same shall be settled by the Arbitrator; and the Owner of the Rentcharge or Fee-farm Rent shall have all the same Rights and Remedies for the Recovery of such apportioned Part, as against the Lands not required for the Purposes of the Special Act^a, as previously to such Apportionment he had for Recovery of the Entire.

Apportionment of Rent of Lands under Lease where Part only of such Lands is required.

6. If any Lands shall be comprised in a Lease for a Life or Lives or for a Term of Years unexpired, Part only of which Lands shall be required for the Purposes of the Special Act^a, the Rent payable in respect of the Lands comprised in such Lease shall be apportioned between the Lands so required and the Residue of such Lands; and such Apportionment may be settled by Agreement between the Lessor and Lessee of such Lands on the one Part, and the Promoters of the Undertaking on the other Part; and if such Apportionment be not so settled by Agreement between the Parties, such Apportionment shall be settled by the Arbitrator; and after such Apportionment, the Lessee of such Lands shall, as to all future accruing Rent, be liable only to so much of the Rent as shall be apportioned in respect of the Lands not required for the Purposes of the Special Act^a; and as to the Land not so required, and as against the Lessee, the Lessor shall have the same Rights and Remedies for the Recovery of such Portion of Rent as

^a i.e., the special Act of the Company :—§ 2 of Lands Clauses Act, and § 29 of Railways, Ireland, Act; *Hand-book*, p. 240, 316.

previously to such Apportionment he had for the Recovery of the whole Rent reserved by such Lease; and all the Covenants, Conditions, and Agreements of such Lease, except as to the Amount of Rent to be paid, shall remain in force with regard to that Part of the Land which shall not be required for the Purposes of the Special Act, in the same Manner as they would have done in case such Part only has^a been included in the Lease.

7. In case upon the Trial of any Traverse under the Provisions of the said Act^b, it shall appear that the Sum awarded to the Traverser by the Jury shall be less than the Sum awarded by the Arbitrator, it shall be lawful for the Judge, if he shall think fit, to adjudge that such Traverser is not entitled to any Costs of such Traverse, or that the Company is entitled to Costs not exceeding the Sum of Ten Pounds against such Traverser; and such Adjudication of such Judge shall be entered in the Crown Book, and such Costs so awarded shall be deducted from the Purchase or Compensation Money payable by the Company to such Traverser, or shall be recovered from him by Distress in like Manner as is provided by the Fifty-third Section of "The Lands Clauses Consolidation Act, 1845^c," with respect to Costs payable to Promoters.

Costs in case of Traverse of Arbitrator's award, where sum awarded by Jury is less than previous award.

8. "The Railways Act (Ireland), 1851^d," as amended by this Act, and this Act, shall be read together as One Act, and shall be made perpetual; and this Act shall be held to be incorporated with that Act in any Act already or hereafter incorporating that Act.

Acts to be as One Act, and perpetual Incorporation of Acts.

9. This Act may be cited as "The Railways Act (Ireland), 1860."

Short Title.

^a "Has;" sic. Had?

^b 14 & 15 Vic. c. 70, § 26, 27:—*Hand-book*, p. 314-5.

^c 8 Vic. c. 18, § 53:—*Hand-book*, p. 256-7.

^d 14 & 15 Vic. c. 70:—*Hand-book*, XX.

XXXIX.—LANDS CLAUSES AMENDMENT ACT.

23 & 24 VICT. CAP. 106.

An Act to amend the Lands Clauses Consolidation Acts^a, 1845, in regard to Sales and Compensation for Land by way of a Rentcharge, Annual Feu Duty or Ground Annual, and to enable Her Majesty's Principal Secretary of State for the War Department to avail himself of the Powers and Provisions contained in the same Acts^a.

[20th August, 1860.]

EXTRACTS.

8 & 9 Vict.
c. 18a.

“WHEREAS it is expedient to extend the Provisions of the Lands Clauses Consolidation Acts^a, 1845, in regard to Sales of Land, or Compensation for Damages, in consideration of an annual Rentcharge, Annual Feu Duty or Ground Annual, and to enable Her Majesty's Principal Secretary of State for the War Department to avail himself of the Powers and Provisions contained in the same Act^a for the Purchase of Lands wanted for the Service of the War Department or for the Defence of the Realm: Be it enacted^b...as follows:

Repeal of
part of Sect.
10 of Lands
Clauses Act.

“1. So much of the Tenth Section of the Lands Clauses Consolidation Act, 1845^c, as provides that, save in the Case of Lands of which any Person is seised in fee or entitled to dispose absolutely for their^d own Benefit, the Consideration to be paid for any Lands, or for any Damage done thereto, shall be in a gross Sum, is hereby repealed.

Power to sell,
&c., Lands

“2. The Power to sell and convey Lands in con-

^a “Acts; Act:” sic. The Lands Clauses Consolidation Acts, 1845, are, 8 Vic. c. 18, for England; and 8 Vic. c. 19, for Scotland, to which the present act extends:—see *Hand-book*, Introd. p. xi, xix. For Irish Railway Lands Acts, see 14 & 15 Vic. c. 70 and 23 & 24 Vic. c. 97, (XX, XXXVIII.)

^b See note ^a in page 401.

^c 8 Vic. c. 18, § 10;—*Hand-book*, p. 245.

^d “Their;” sic. His?

variation of an annual Rentcharge provided by the Tenth Section of the said Act^a, and the Power to recover such Rentcharge provided by the Eleventh Section of the said Act^b, are hereby extended to all Cases of Sale and Purchase or Compensation under the said Act, where the Parties interested in such Sale or entitled to such Compensation are under any Disability or Incapacity, and have no Power to sell or convey such Lands, or to receive such Compensation, except under the Provisions of the said Act^c.

for an annual Rentcharge, and to recover, extended to all Sales, &c., where Parties are under Disability.

" 3. The Power to sell and convey Lands in consideration of an Annual Feu Duty or Ground Annual, under the Tenth Section of the Lands Clauses Consolidation (Scotland) Act, 1845, and the Power to recover such Annual Feu Duty or Ground Annual, are hereby extended to all Cases of Sale or Purchase or Compensation under the said Act, where the Parties interested in such Sale are under any Disability or Incapacity, and have no Power to sell or convey such Lands, or to receive such Compensation, except under the Provisions of the said Act.

Similar Provision with regard to Lands sold under Sect. 10 of 8 & 9 Vict. c. 19, Scotch Act.

" 4. In every Case of such Sale or Compensation by any Parties other than Parties seised in fee or entitled to dispose absolutely of the Lands so sold or damaged, the Amount of such Rentcharge, Annual Feu Duty or Ground Annual, herein-before mentioned, shall be settled in the Manner directed in the Ninth Section of each of the said Acts^d respectively: Provided, that the Amount of such annual Rentcharge, Annual Feu Duty or Ground Annual, shall in no Case be less than One Fourth Part greater than the net annual Rent received by the Parties beneficially interested in such Lands, upon an Average of the last Seven Years; and that a Charge of Five per Cent. on the gross Sum estimated or fixed as aforesaid, by way of Compensation for any

Amount of Rentcharge, &c., to be settled in manner directed in Lands Clauses Acts:

Provision.

^a 8 Vic. c. 18, § 10:—*Hand-book*, p. 245.

^b *Ibid*, § 11;—p. 245.

^c As under § 7 of seq. of 8 Vic. c. 18:—*Hand-book*, p. 243.

^d For § 9 of English Lands Clauses Act, 8 Vic. c. 18, see *Hand-book*, p. 244; and for observations as to Scotch acts, p. xix of Introduction.

Damage that may be done to the said Lands, shall in all such Cases be added to and shall form a Part of the said Rentcharge, Annual Feu Duty or Ground Annual; and that no Fine, Foregift, Grassum, Premium, or other Consideration in the Nature thereof, shall be paid or taken in respect of the Lands so sold or damaged, other than the annual Rentcharge, Annual Feu Duty or Ground Annual made payable for such Lands: Provided also, that such Rentcharge shall be and remain upon and for the same Uses, Trusts, and Purposes as those upon which the Rents and Profits of the Land so conveyed stood settled or assured at or immediately before the Conveyance thereof, and shall be a First Charge on the Tolls and Rates, if any, payable under the special Act^a.

Borrowing Powers of Company to be reduced proportionally, where Lands are taken on a Rentcharge, &c.

“ 5. In case the Promoters of the Undertaking^b shall be empowered by any Act or Acts relating thereto, to be passed after the passing of this Act, to borrow Money to an Amount not exceeding a prescribed Sum, then in the event of the Promoters of the Undertaking^b agreeing at any Time after the passing of this Act with any Person, under the Powers of this Act and of either of the Acts herein-before mentioned, or of either of the said Acts only, for the Purchase of any Lands in consideration of the Payment of a Rentcharge, Annual Feu Duty or Ground Annual, the Powers of the Promoters of the Undertaking for borrowing Money shall be reduced by an Amount equal to Twenty Years Purchase of any Rentcharge, Annual Feu Duty or Ground Annual, so for the Time being payable.”

Sections 6 and 7 have reference to the second object expressed in the title of the act, and relate to the purchase of lands, &c., “for public purposes,” by Town Councils (§ 6), or for the service of the Admiralty or

^a i.e., the special Act of the Company: § 2 of Lands Clauses Act, 1845,—*Hand-book*, p. 240.

^b “Promoters of the Undertaking,” § 2 of Lands Clauses Act;—*Hand-book* p. 240.

the War Department or the defence of the Realm, by the Secretary of State for War (§ 7): and make the provisions of the Lands Clauses Act of 1845 applicable to these purposes. As these provisions do not concern Railways, it has been thought unnecessary to insert them in this collection.

“ 8. This Act shall be read and construed as Part of the said Lands Clauses Consolidation Act, 1845, or of the Lands Clauses Consolidation (Scotland) Act, 1845, in all Matters in which it relates to the said Acts respectively; and in citing this Act in other Acts of Parliament, and in legal Instruments, it shall be sufficient to use the Expression of ‘The Lands Clauses Consolidation Acts Amendment Act, 1860.’”

Act to be construed as part of Lands Clauses Acts: Short Title.

LOCAL AND PERSONAL ACT.

XL.—IRISH RAILWAYS CLEARING HOUSE.

23 VICT., CAP. xxix.

An Act for more effectually carrying out the Clearing House System in *Ireland*, and for facilitating legal Proceedings in relation thereto. [15th May, 1860.]

WHEREAS, for some Time past, Arrangements have subsisted between several Railway, Canal, and Steam Packet Companies and Public Carriers in Ireland, for facilitating the Transmission of the Through Traffic in Passengers, Animals, Minerals, Goods, and all other Descriptions of Traffic passing over and upon Railways, Canals, and Steam Packets belonging to different Companies, for the Purpose of affording in respect to such Passengers, Animals, Minerals, Goods, and such other Traffic, the same or the like Facilities of Through Booking and Charges, and otherwise, as if such Railways, Canals, and Steam Packets had belonged to One Company, and for the Settlement of the Accounts of the Receipts for Through Traffic in which Two or more Companies or Parties are interested,

Objects of the Clearing House :

Its manage-
ment.

Interpreta-
tion:

"The Com-
mittee."

"Clearing
House."

and of the Accounts arising out of the Use by a Company or other Party of the Carrying Stock belonging to other Companies or Parties, and for the Audit and Adjustment of such Traffic Accounts of Companies or Parties as may be submitted to the Clearing House for that Purpose; which Arrangements are conducted under the Control and Superintendence of a Committee appointed by the several Railway, Canal, and Steam Packet and other Companies, and Persons who are Parties thereto, which Committee is in this Act designated "the Committee;" and the Business of such Committee has heretofore been and is now carried on under the Name or Style of the Irish Railway Clearing House (herein-after designated "the Clearing House") in Dawson Street in the City of Dublin: And whereas the aforesaid Arrangements have been productive of great Convenience to the Public and to the Parties thereto, and a considerable Saving of Expense in the Transmission of Passengers, Animals, Minerals, Goods, and other Traffic over and upon the Railways, Canals, and Steam Packets belonging to such Parties: And whereas Difficulties have arisen in carrying the Objects of the Clearing House into effect in consequence of the Committee not possessing the Power of prosecuting or defending Actions or Suits, or taking other legal Proceedings: And it is therefore expedient to remove such Difficulties, and to extend and improve the Clearing House System and the Proceedings connected therewith; but the Purposes aforesaid cannot be effected without the Authority of Parliament: May it therefore please Your Majesty that it may be enacted, and be it enacted^a as follows:

Present and
future Parties
to the Clear-
ing House,
subject to the
Provisions of
this Act.

Persons and
Companies,
being carriers,
who may be-
come Parties
to Clearing
House.

1. The several Companies, Corporations, Partnerships, and Persons who at the Time of the Passing of this Act are Parties to the Clearing House^b, shall be subject to the Provisions of this Act: and all such Companies, Corporations, Partnerships, and Persons as shall respectively become, in Manner herein-after mentioned^c, Parties to the Clearing House^b, shall be subject to the like Provisions; that is to say, every other Company, Corporation, Partnership, and Person who now is or are or hereafter may be engaged, or is or are or may be empowered to be engaged, either solely or in conjunction with any other Business, in the Business of carrying Passengers,

^a See note ^a in p. 401.

^b For "Parties" to Irish Clearing House, (Sept. 1860,) see List, p. 432. • § 2

Animals, Minerals, Goods, and moveable Chattels and Effects of whatever Kind, or any of them, by Land and Water, or by Land, or by Water, to or from any Part of^a Parts of Ireland, and all Persons who shall be engaged in any such carrying Business as aforesaid as Lessees of or Contractors with any such Company, Corporation, Partnership, or Person^b.

2. If any Company, Corporation, Partnership, or Person^c who may not be a Party to the Clearing House shall, by Writing sealed with the Common Seal of any such Company or Corporation, or under the Hand of any such Partnership or Person, request the Committee to be admitted a Party^d to the Clearing House^e, and the Committee shall assent to such Request, such Company, Corporation, Partnership, or Person shall from the Time of such Assent being given, or at such other Time as may be specified in the said Request, become a Party to the Clearing House.

Admission of future Parties to Clearing House, with Assent of Committee.

3. If any Party to the Clearing House shall desire to retire therefrom or cease to be a Party thereto, and shall give Notice thereof in Writing to the Committee, such Party shall, at the Expiration of Three Calendar Months from the Time when such Notice shall be given,—or if a more distant Time shall be stated in such Notice, then at the Time so stated,—cease to be a Party to the Clearing House: Provided always, that such Notice shall, in the Case of a Company or Corporation, be sealed with the Common Seal of such Company or Corporation, and in the Case of a Partnership to^f be under the Hands of at least Two Copartners; provided also, that such Party shall have paid and discharged all sums due by such Party to the Committee.

Parties may withdraw from Clearing House on prescribed Notice.

4. If not less than Two Thirds of the Committee present at a Meeting specially summoned shall, by Writing signed by

Committee may remove Parties from

^a "Of;" sic. Or?

^b Companies or Persons, being proprietors of, or working, "Tramways for the Conveyance of Passengers, Produce, Minerals, Merchandise, and other Goods, in Carriages, Waggon, and Trucks, &c.," under the new Tramways Act for Ireland, 23 & 24 Vic., c. 152 (1860), may, under this section, as Carriers, become Parties to the Clearing House, in manner provided in § 2.

^c i.e., being "in the business of carrying," &c., as provided in § 1.

^d The terms, "request the Committee to be admitted a Party," appear intended to mean "request the Committee to admit such Company," &c., or "apply to the Committee for admission as a Party."

^e And see § 6 as to other particulars to be stated in the application for admission, if the party wishes to be represented on the Committee of Management of the Clearing House.

^f Sic. Omit "to"?

Clearing
House on
prescribed
Notice.

their Secretary or by Two Members of the Committee, give Notice to any Company, Corporation, Partnership, or Person, that they or he, as the Case may be, shall cease to be a Party to the Clearing House at a Time named in such Notice, not being less than One Calendar Month from the Time of giving such Notice, such Company, Corporation, Partnership, or Person shall, at the Time so named, cease to be a Party to the Clearing House.

Committee:
its constitu-
tion and
appointment.

5. Subject to the Provisions herein-after contained, the Committee shall consist of Delegates appointed by Parties to the Clearing House only, and shall be composed in the Manner following; (that is to say,) each Company or Corporation shall appoint a Delegate, being a Director of such Company or Member of such Corporation,—each Partnership shall appoint One of its Members to be a Delegate,—and each Person may appoint himself or another as a Delegate; such Appointment, in the Case of a Company or Corporation, to be under Seal, and in the Case of a Partnership to be under the Hands of at least Two Copartners, and in the Case of a Person to be under the Hand and Seal of such Person: Provided always, that any such Delegate may represent Two or more Parties on the Committee, but shall in no Case have more than One Vote^a; provided also, that the Acts of the Committee shall be valid and binding, notwithstanding the Absence of any such Delegate, or that any Company, Corporation, Partnership, or Person may happen to be unrepresented at any Meeting of the Committee.

Representa-
tion of future
Parties on
the Commit-
tee of the
Clearing
House.

6. No Company, Corporation, Partnership, or Person hereafter admitted a Party to the Clearing House shall be entitled to be represented on the Committee by a Delegate, unless the written Request^b to be so admitted shall specify that the Party Applicant desires to be so represented, and shall specify the Mode in which such Delegate is to be from Time to Time appointed and removed, and unless the Committee accept this Mode of Appointment or Removal as a proper one; and the Mode so specified for appointing any such Delegate shall not be altered without the Consent of the Committee.

Proof of ap-
pointment of
Delegates on
the Com-
mittee.

7. No Person claiming to be a Member of the Committee under an Appointment made after the passing of this Act,

^a Under the terms of this provision, that a delegate representing different parties shall “in no case” have more than one vote, it would appear that such a delegate, if Chairman, could not exercise the casting vote given, under § 9, 12, to any other delegate when Chairman.

^b Under § 2.

shall be or shall be entitled to act as a Member thereof, until the Committee have resolved that they are satisfied that such Member has been duly appointed; and the Decision of the Committee that such Member is duly appointed shall not only be Evidence of such due Appointment, but shall, until the Committee otherwise order, make such Person to be a Member of the Committee though in fact he is not duly appointed.

8. Members of the Committee which at the Time of the passing of this Act carries on Business under the Name or Style of the Irish Railway Clearing House, (in this Act designated "the Clearing House,") in Dawson Street, in the City of Dublin, shall, without any further Appointment, be Members of the Committee under this Act.

Existing Committee continued without further appointment.

9. The Committee shall meet once a Month, and at any other Times whereof the Secretary shall, at the written Request of the Chairman for the Time being, or any Two Members of the Committee, give at least Ten Days Notice in Writing to every Company, Corporation, Partnership, and Person who may be Parties to the Clearing House, or to the Secretary of every such Company and Corporation; and every such Meeting may be adjourned from Time to Time as the Committee shall think fit: and Meetings and adjourned Meetings of the Committee shall be held at the Offices of the Clearing House in Dawson Street aforesaid, except when the Committee shall have appointed some other Place, and then at such other Place: and in order to constitute a Meeting of the Committee, there shall be present at least Three Members, including the Chairman^a; and, except where otherwise provided^b, all Questions at every Meeting shall be determined by the Majority of Votes of the Committee present, and in case of an equal Division of Votes the Chairman of the Meeting shall have a Casting Vote in addition to his Vote as one of the Committee^c; and Notice of the Business to be brought before any Meeting shall, at least Three Days before the Day of such Meeting if the Meeting be an ordinary one, and at least Ten Days before the Day of such Meeting if it be a special one, be given to every Company, Corporation, Partnership, and

Meetings of the Committee:

Time; and Notice.

Place;

Quorum;

Voting, and casting vote of Chairman;

Notice of business for Meetings.

^a See § 11.

^b As in § 4, requiring a majority of two-thirds in the case there provided for.

^c It is "otherwise provided," in § 5, in the case of a delegate representing different "parties" in the Clearing House, who "shall in no case have more than one vote." In case of such a delegate being chairman of a meeting at which there was an equal division of votes, it would seem that there could be no majority to determine the question, which would therefore fall to the ground.

Person who are Parties to the Clearing House, or the Secretary of every such Company or Corporation.

Chairman :

to be appointed annually, in January.

Removal of Chairman :

Supply of Vacancy ;

Chairman need not be a Delegate ;

and in such case not to vote, except in case of equality.

If Chairman absent, Committee to elect for such Meeting.

Sub-Committees :

Quorum ; Powers ;

Voting ;

10. Until the First Meeting of the Committee which shall be held after the passing of this Act, Sir Edward McDonnell, or other the Chairman of the Committee for the Time being, shall continue in Office ; and at the First Meeting of the Committee which shall be held after the passing of this Act, and at the Meeting to be held in the Month of January in each succeeding Year, the Members of the Committee present at the Meeting shall, if they think fit, either continue in Office the Chairman for the Time being, or choose another Chairman ; and a General Meeting of the Committee specially summoned shall have Power to remove any Chairman ; and if any Chairman shall die or resign or be removed, the Committee shall have Power as soon as may be to choose some other Person to fill the Vacancy thereby occasioned ; but every Chairman elected to supply a Vacancy other than at the Meeting in the Month of January in any Year shall continue in Office so long only as the Person in whose Place he shall be so elected would have been entitled to continue if such Death, Resignation, or Removal had not happened : Provided always, that it shall not be necessary that the Person chosen as Chairman be a Delegate of any of the Companies, Corporations, Partnerships, or Persons, Parties to the Clearing House, but in case he shall not be a Delegate he shall not be entitled to vote on any Question^a, unless in the Case of an Equality of Votes, when he shall be entitled to give the Casting Vote.

11. If at any Meeting of the Committee the Chairman shall not be present, the Members of the Committee present shall choose One of their Number to be Chairman of such Meeting.

12. The Committee may appoint Sub-Committees consisting of such Number of Members of the Committee as they think fit, and shall fix the Quorum of such Sub-Committees, and may grant to such Sub-Committees Power to do any Acts relating to the Affairs of the Clearing House which the Committee could lawfully do and may from Time to Time think proper to entrust to them ; and all Questions at any Meeting of the Sub-Committees shall be determined by a Majority of the Votes of Members present, and in case of an equal Division of Votes the Chairman^b shall have a Casting Vote in ad-

^a But see § 12, 13.

^b i.e., the Chairman of the Sub-Committee ? who is to be appointed at each meeting of each Sub-Committee for that meeting only, under § 13.

dition to his Vote as a Member of such Sub-Committee^a: Proceedings of Sub-Committees to be submitted to the general Committee, and valid until overruled.
 Provided always, that the Acts, Minutes, and Proceedings of the Sub-Committees shall from Time to Time be submitted to the Committee, but all such Acts, Minutes, and Proceedings shall be held to be valid, and shall take effect, unless and until they are overruled by the Committee.

13. At every Meeting of any such Sub-Committee, the Members thereof present shall appoint One of their Number to be Chairman of such Meeting, who shall be entitled to give One Vote as an ordinary Member, and in case of an Equality of Votes shall be entitled to give another Vote as the Casting Vote^b. Sub-Committee to appoint a Chairman at each Meeting; his voting.

14. James Waller Elwin shall be the Secretary to the Committee until his Death or Resignation or Removal, whichever shall first happen; and the Committee shall have the Power to remove him and all future Secretaries; and in the event of the Resignation or Death or Removal as aforesaid of any Secretary, the Committee shall appoint a Secretary in his Stead. Secretary: Power of removal; Supply of vacancy.

15. Any Money which shall be received by the Committee, shall be held by them as Trustees for the Party or Parties to whom the Committee shall decide such Money to be payable; but no Member of the Committee shall be answerable for any such Money as may be lost or withheld by reason of any Cause other than his own personal Misconduct. Moneys received by Committee; accountability.

16. The Accounts of the Clearing House, and the Balances due to and from the several Parties thereto, shall be settled and adjusted by the Secretary to the Committee for the Time being, which Secretary shall also settle and determine the Amount to be from Time to Time contributed to the Funds of the Clearing House by the Parties thereto; and in case of any Difference respecting such Accounts, the Decision of the Committee to the Effect that any Balance or Sum is payable by any Company, Corporation, Partnership, or Person, then or theretofore Party to the Clearing House, shall be final and conclusive; and so long as any such Balance or Sum which the Committee shall decide to be payable by any Party, or any Part thereof, shall not be paid, Interest shall accrue and be paid on the same at such Rate per Centum per Annum, not Accounts and Balances to be settled and adjusted by Secretary; In case of difference, decision of Committee final; Balances in arrear, to be liable to Interest.

^a Unless he be a delegate for more than one "party," or not a delegate at all: see notes on § 5 and 9, and proviso at close of § 10.

^b This provision in § 13 as to voting appears a repetition of that already in § 12: see preceding note ^a.

Balances and
Interest, a
Debt to Com-
mittee.

exceeding Seven Pounds per Centum, as the Committee shall from Time to Time determine; and such Sum or Balance, with Interest thereon as aforesaid, shall be a Debt due to the Committee.

Expenses
payable out of
the Funds of
the Clearing
House.

17. The Committee shall, out of the Funds of the Clearing House, pay all the Expenses of the Clearing House, and all Costs, Charges, Damages, and Expenses which the Members of the Committee or Sub-Committee, or any or either of them, as such Members or Member, or which the Secretary as nominal Plaintiff or Defendant, or other Party on behalf of the Committee, may bear, sustain, or be put to; and the Members of the Committee and Secretary shall be completely indemnified and saved harmless out of the Funds of the Clearing House, and by the Parties thereto, of, from, and against all Actions, Suits, and Proceedings of any Sort, Costs, Charges, Damages, and Expenses, to which they or any of them may in any way be subjected as Members or Member of the Committee, or as Secretary to the Committee, by reason of anything which they or he may bonâ fide do or omit to do, whether such Deed or Omission be within their Powers or not.

Committee
may sue for
Balances or
Sums due.

18. The Committee may, by Action of Debt in the Name of their Secretary, in any Court of competent Jurisdiction in Dublin, Westminster, or Edinburgh, as the Case may be, recover from any Company, Corporation, Partnership, or Person, any Balance or Sum, with Interest thereon, not exceeding the Rate of Seven Pounds per Centum per Annum, which the Committee shall decide to be payable by such Company, Corporation, Partnership, or Person, whether to any other Company, Corporation, Partnership, or Person, or on account of the Clearing House, and whether such Company, Corporation, Partnership, or Person be still at the Time of such Decision or has then ceased to be a Party to the Clearing House, and whether such Sum or Balance and Interest shall or shall not have been previously ascertained by the Secretary^a to be payable.

Proof in case
of Plea of
never in-
debted.

19. If in any Action brought according to this Act, the Defendants shall plead that they never were indebted, or any Plea in Substance amounting to a Denial that the Defendants ever were indebted, the Plaintiff shall, on Issue joined on such Plea, be entitled to a Verdict, upon Proof that the Committee decided the Sum in question to be payable by the Defendants^b,

^a § 16.

^b See § 16.

and that the Defendants were either at the Time of such Decision or at some previous Time a Party to the Clearing House; and in the latter Case, upon further Proof that such Sum was decided to be payable in respect of some Transactions, Matters, or Expenses which happened or were sustained while the Defendants were Parties to the Clearing House.

20. The Defendants in such Action may plead any Matter showing that they have, since the Time of the Decision, discharged the Sum or Balance and Interest so decided to be payable, but shall not plead any Plea denying the Plaintiff to be Secretary. Plea by defendants.

21. In support of any Action under this Act, it shall not be necessary as Part of the opening Case for the Applicant or Plaintiff to prove otherwise than as hereafter mentioned that the Members of the Committee were duly appointed, or that the Meeting was duly instituted or holden, or that the Proceedings were regular; but it shall be sufficient as *prima facie* Evidence of those Facts respectively to prove that the Decision or Resolution in question was made^a at a Meeting purporting to be a Meeting of the Committee. Evidence in support of Summons, Rule, or Action.

22. On the Trial of any Action under this Act, any Company, Corporation, Partnership, or Person who may have acted as a Party to the Clearing House, shall, upon Proof thereof, be estopped from contending that at the Time when they so acted they were not a Party thereto; and they shall also be precluded from repudiating any Accounts adjusted by or authorized to be adjusted by the Committee^b, or the Acts of their respective Delegates during the Time such Delegate was a Member of the Committee. Parties to Clearing House estopped from denying their being such Parties and from repudiating accounts or acts of their Delegates.

23. The Committee shall cause Notes, Minutes, or Copies, as the Case may require, of all Appointments made or Contracts entered into by them, and of the Orders and Proceedings of all their Meetings, to be duly entered in Books to be kept by them for that Purpose; and every such Entry shall be signed by the Chairman of the Meeting at which such Appointments, Contracts, Orders, or Proceedings respectively took place, who shall add the Word "Chairman" to his Signature, and which Entries may be made and signed either at or after the Meetings to which they respectively relate; and every Entry purporting to be so signed shall be received as Proceedings of Committee to be entered in Books:

To be signed by Chairman of the Meeting:

Such entries to be evidence

^a See note * on § 9.

^b Under § 16, accounts and balances "shall be settled and adjusted by the Secretary," &c.

Evidence in all Courts, and before all Judges, Justices, and others, without Proof of such respective Meetings having been duly convened or held, or of the Persons making or entering such Orders or Proceedings being Members of the Committee, or of the Signature of such Chairman, or of the Fact of his having been Chairman, all which last-mentioned Matters shall be presumed till the Contrary be proved.

Books of the Committee, or certified Copies thereof, *prima facie* Evidence.

24. On the Trial of any such Action, after it is proved to the Satisfaction of the Court or Judge trying the Cause, that such Company, Corporation, Partnership, or Person is or had once been a Party to the Clearing House, the Books kept by the Committee shall be *prima facie* Evidence of the Truth of the Matters therein stated and contained ; and such Books and all Entries therein may be proved by Copies, and a Certificate that any Writing is such a Copy, subscribed to or endorsed on such Writing and purporting to be signed by the Chairman or Secretary of the Committee, shall be sufficient Proof that such Writing is a true Copy, without Proof of the Signature or of the official Character of the Person who signs it, and such Copy shall have the same Effect in Evidence as the Originals respectively would have had ; and the Secretary, although the nominal Plaintiff, and the Members of the Committee, shall be competent Witnesses either for the Plaintiff or for the Defendants.

Secretary and Committee-men, competent witnesses.

Suits, &c., in name of the Secretary.

25. The Committee to the Clearing House may in all Cases sue and be sued in the Name of the Secretary to the Committee ; and in all Proceedings at Law and in Equity, and in Bankruptcy or Insolvency, or of any other Sort, whether civil or criminal, the Name of the Secretary may be used instead of the Names of the Members of the Committee and of the Parties to the Clearing House ; and Proofs in Cases of Bankruptcy, Insolvency, or Winding-up Affairs may be made by the said Secretary.

In criminal Proceedings, property may be described as property of Secretary :

26. In any Indictment or Information for any Felony or Misdemeanor, wherein it shall be necessary to state the Ownership of any Property whatsoever, whether real or personal, and the same shall either belong to the Committee, or be in their Custody or in the Custody or Possession of any Officer, Clerk, or Servant to the Committee, or of any Person employed for the Purpose or in the Capacity of Clerk or Servant by the Committee, or in or on any Building or Land used for the Purposes of the Clearing House, or shall be used or intended to be used for the Purposes of the Clearing House, it shall be

to state such Property to belong to the Secretary of the Committee.

any Indictment for Embezzlement wherein it shall be required to state the Party charged with the Embezzlement have been the Clerk or Servant of some Master or Person who has been employed for the Purpose or in the Office of Clerk or Servant by some Master or Masters, and the Members shall have been the Committee, it shall be sufficient in such Indictment to name the Secretary of the Committee. Every Place in such Indictment where the Names of the Members of the Committee would but for this Enactment be required to be inserted.

And prosecutions for Embezzlement, in Name of Secretary.

Every Notice or Requisition on the Business of the Clearing House, or given pursuant to this Act, shall be sufficient in Writing, signed by the Secretary of the Committee, or by the Secretary or other Officer of the Company, or by the Partnership or Person giving the same, and shall be sent by the General Post addressed to the Secretary of the Company or Corporation, or to the Partnership or Person to whom the same is intended, or to the Secretary at the Office of the Clearing House in case such Notice or Requisition is intended for the Committee; and Proof of such Requisition being deposited in any Public Letter Receiving House for Letters intended to be forwarded by the General Post shall be deemed Proof of the due Service of such Notice or Requisition; and Notices or Requisitions of any Member of the Committee shall be sufficient if sent to the aforesaid addressed to him at his private Residence, or to the principal Office of the Company or Corporation, or to the Office of Business of the Partnership or Person whom he

Notices by or to the Clearing House: Signed by Secretary or Officer, &c.:

and served by Post;

Proof of service.

every Writ, Summons, Intimation, or other Document issued in all legal Proceedings in the Name of the Secretary of the Committee pursuant to this Act, against any Company, Partnership, or Person who shall be or have been a Party to the Clearing House, may be served in the Case may be, by forwarding the same by Post in a Registered Letter from the Chief Post Office in Dublin, —in the Case of a Company or Corporation, to the Office thereof at the principal Office of such Company or Partnership, —and in the Case of all other Parties, to such Party's respective Places of Business; and Proof of such

Service of Writs, &c.:

by Post, registered

Description
of Parties
to Clearing
House, and of
Committee,
in legal Pro-
ceedings.

Writ, Summons, Intimation, or other Document having been so forwarded shall be deemed Proof of the due Service thereof.

30. In all Pleadings or Proceedings, civil or criminal, it shall be sufficient to mention the Companies, Corporations, Partnerships, and Persons who are Parties to the Clearing House by the Description of "the Parties to the Clearing House mentioned in the Clearing Act (Ireland), 1860," and to describe the Committee by the Description of "the Clearing House Committee mentioned in the Clearing Act (Ireland), 1860," instead of stating the Names of the individual Parties and Members.

Description
of Secretary
in legal Pro-
ceedings.

31. In all Cases where the Name of the Secretary to the Committee shall be used under the Authority of this Act, it shall be sufficient to name and describe him, and to state the Authority for using his Name.

Actions, &c.,
not to abate
on Death or
Removal or
Resignation
of Secretary.

32. Upon the Death or Removal or Resignation of any Secretary, no Action or Suit or other Proceeding pending in his Name as Plaintiff or Defendant, or otherwise, either on behalf of or against the Committee, shall abate or be stayed; but as soon as another Secretary shall be appointed, the Name of such new Secretary shall be thereafter used; and in an Action at Law, such Name shall, whether before or after Judgment, be introduced by Suggestion, to which no Plea or Demurrer shall be allowed; and the Omission to make such Suggestion, and an erroneous Suggestion, shall be mere Irregularities, and shall, on the Application of the Committee, or of the Party opposed to the Committee, be rectified, but shall not otherwise be taken advantage of.

Committee
may deter-
mine Ques-
tions referred
to them as
for Arbitra-

33. All such Companies, Corporations, Partnerships, and Persons as are mentioned in the First Section of this Act, whether Parties to the Clearing House or not^a, may agree to refer and may refer to the Arbitration of the Committee^b or the said Sub-^cCom-

^a *i.e.*, any Companies or Persons engaged or empowered to be engaged "in the business of carrying." &c., in Ireland, either for themselves or as Lessees or Contractors of such carriers:—§ 1.

^b "The Committee,"—*i.e.*, the Committee of Management of the Clearing House; see preamble and § 5-8.

^c Section 12 gives a general power to the general Committee to appoint Sub-Committees with such of their own powers and for such purposes as the Committee may think fit; but the expression "the said Sub-Committee" here used appears of doubtful application, or rather to have no application: and this provision in reference to "the said Sub-Committee" would seem to be void and of no effect, from uncertainty. The reference, however, to the Committee, "or any Arbitrators and Umpire to be chosen by or out of the Committee." remains unaffected by this. The effect of the latter words, so far as regards Railway Com-

tee, or any Arbitrators^a and Umpire to be chosen by or out of Committee, any existing or future Differences, Questions, or or Matters whatsoever in which any such Companies, Corporations, Partnerships, and Persons then are or thereafter shall be tually interested, and which they might settle or dispose of wween themselves; and may delegate to the Committee or the d Sub-Committee^b, or to the Arbitrators and Umpire to be een by or out of the Committee, as the Case may be, Power to ermine all or any of the Terms of any Contract to be made wween the Parties to any such Reference: and all the wers conferred on Railway Companies by "The Railway npanies Arbitration Act, 1859^c," may be exercised by and d in reference to this Act be held to apply to and include uch Parties as aforesaid; and all the Provisions of the said ailway Companies Arbitration Act, 1859^c," with respect he Appointment of Arbitrators and Umpire, either in the st instance, or to supply Vacancies occasioned by Death, apacity, Unfitness, or Failure to act, and whether by the npanies or by the Board of Trade, and the Powers of Arbitrators and Umpire, and the Proceedings in the Arbitration, ay be exercised by or in reference to the Committee and the id Sub-Committee^b, and Arbitrators and Umpire to be chosen or out of the Committee, as the Case may be, on behalf of y such Parties as aforesaid; and all the Provisions of the

tion: or may
appoint Arbitrators and Umpire:

Powers.

Arbitration
Act, 29 & 32
Vic. c. 59,
to include
Parties
severally.

also, is to give power to them, in Ireland, to transfer, if they think fit to do the appointment of Arbitrators from themselves, as under the Arbitration Act of 1859, (ante. XXXVI.) to the Committee of the Clearing House under the Act, and also to transfer, contrary to the usual course, the appointment of the Umpire from the Arbitrators themselves to the same Committee which appoints the latter. In other words, the provision enables parties to refer any action in dispute to any number not less than three (the quorum, under § 9) Members of the Clearing House Committee, or to any like number of "any other persons appointed by that Committee, which is itself composed of persons qualified and appointed as provided in § 5. The persons so appointed by the Committee need not be Members of the Committee, but may be "any Arbitrators and Umpire chosen by or out of the Committee."

^a "Any Arbitrators"—there is no limit to the number of Arbitrators that may be so appointed under this Act; but the expression "Arbitrators and Umpire" contemplates not less than three persons. Under the Act of 1859, disputes may be referred to a single Arbitrator, where the Companies in dispute so agree, or to two or more Arbitrators corresponding with the number of Companies concerned, with an Umpire appointed by the Arbitrators in the latter case—see the Act, XXXVI, § 5, 6, 12.

^b "Said Sub-Committee;"—these words appear to have no application: see preceding note ^c, p. 428.

^c 29 & 32 Vic., c. 59; ante, XXXVI.

last-mentioned Act^a with respect to Awards, and the Costs of the Arbitration and Awards, shall be held applicable to and shall apply to any References to and Awards to be made by the Committee or the said Sub-Committee^b, or any Arbitrators or Umpire to be chosen by or out of the Committee.

Submission
to Arbitra-
tion may be
made a Rule
of Court.

34. The Submission to any Arbitration in accordance with this Act may at any Time be made a Rule of One of Her Majesty's Superior Courts of Record at Dublin, on the Application of any Party interested; and the Court may remit the Matter to the Committee or the said Sub-Committee^b, or any Arbitrator or Arbitrators^c to be chosen by or out of the Committee, with any Direction the Court think fit.

Expenses of
Act.

35. All the Costs, Charges, and Expenses of obtaining and passing this Act, or incident thereto, shall be paid by the Committee out of such Moneys as shall come to their Hands after the passing of this Act, or shall be in their Hands at the Time of the passing thereof.

Short Title.
Public Act.

36. This Act shall be called "The Clearing Act (Ireland), 1860;" and shall be deemed to be a Public Act, and as such shall be judicially noticed.

^a 22 & 23 Vic. c. 59; ante, XXXVI.

^b "The said Sub-Committee:"—these words appear to have no application; see note ^c in p. 428.

^c The words "and Umpire" used in the previous section are not used here: see § 29 of Arbitration Act there referred to (XXXVI, p. 407), from which this clause appears to be altered.

RAILWAY COMPANIES WHO ARE PARTIES TO THE CLEAR-USE IN LONDON, UNDER 13 & 14 VIC. C. XXXIII.^a—
BER, 1860.

Clearing
House in
England:—
List of
Parties.

Nottingham, and Boston.	Lancashire and Yorkshire.
Wakefield, and Leeds.	Lancaster and Carlisle.
Junction.	Leeds, Bradford, and Halifax.
London, and Midland Coun-	Leominster and Kington.
ty.	Leven.
Essendine.	London and Blackwall.
Shire.	London and North Western.
and Dumbartonshire.	London and South Western.
Silloth Bay.	London, Tilbury, and Southend.
Las and Dumfries.	Manchester, Sheffield, and Lincoln-
h and Workington.	shire.
Donmouth, Usk, and Pon-	Manchester, South Junction, and
ter.	Altrincham.
and Halstead.	Maryport and Carlisle.
ion.	Midland.
Belfast Junction.*	Midland Great Western of Ireland.*
Drogheda. ^b	Monkland.
Doune, and Callander.	Monmouthshire.
Inniskillen, and London-	Morayshire.
ty.	Newcastle and Carlisle.
Arbroath.	Newmarket.
Newtyle.	Newport, Abergavenny, and Hereford.
Perth.	Newry and Armagh.
nties.	North British.
n.	North Eastern.
.	North and South Western.
.	North Staffordshire.
nd Glasgow.	Oswestry and Newtown.
Perth, and Dundee.	Peebles.
ross.	Perth and Dunkeld.
Preston, and West Riding.	Portadown, Dungannon, and Omagh.
Hyde.	Port Carlisle Dock and Railway.
mbarton, and Helensburgh.	Preston and Wyre.
l South Western.	Rhymney.
of Scotland.	Scottish Central.
ern.	Scottish North Eastern.
ern and Western (Ireland).*	Shrewsbury and Birmingham.
ern.	Shrewsbury and Chester.
oss, and Gloucester.	Shrewsbury and Hereford.
uton, and Dunstable.	Shropshire Union.
d Aberdeen.	South Eastern.
Eastern.*	South Staffordshire.
e.	South Wales.
	South Yorkshire and River Dun.
	Spalding and Wisbeach.
	Stamford and Essendine.
	Stirling and Dunfermline.

Clearing
House in
England :—
List of
Parties.

RAILWAYS IN CLEARING HOUSE IN LONDON,—*continued.*

Stockton and Darlington.
St. Andrews.
St. George's Harbour.
St. Helens.
Taff Vale.
Ulster.*
Ulverstone and Lancaster.
Vale of Clwyd.
Warrington and Stockport.
Waterford and Kilkenny.*
Waterford and Limerick.*
Waveney Valley.

Wells and Fakenham.
West Hartlepool Harbour and Rail-
way.
West Midland.
West of Fife.
Whitehaven and Furness.
Whitehaven Junction.
Whitehaven Junction and Whitehaven
and Furness.
Whitehaven, Cleator, and Egremost.
Worcester and Hereford.

Clearing
House in
Ireland :—
List of
Parties.

LIST OF PARTIES TO THE IRISH RAILWAY CLEARING HOUSE, DUBLIN, UNDER 23 VIC. C. XXIX.^a:—SEPTEMBER, 1860.

Bagnalstown and Wexford Railway Company.	Dundalk and Enniskillen Railway Company.†
Ballymena and Portrush Railway Co.	Fishbourne, J.
Belfast and County Down Railway Company.	Great Southern and Western Railway Company.†
Belfast and Northern Counties Railway Company.	Henderson, R. and Son.
Belfast Steam Ship Company.	Irish South Eastern Railway Comp.†
Burns, G. & I.	Kemp and Company.
Chester and Holyhead Railway Company.	Limerick and Castleconnell Railway Company.
City of Dublin Steam Packet Company.	Limerick and Ennis Railway Company.
Clyde Shipping Company.	Limerick and Foynes Railway Company.
Cork and Bandon Railway Company.	Londonderry and Coleraine Railway Company.
Cork, Blackrock, and Passage Railway Company.	Londonderry and Enniskillen Railway Company.†
Cork and Youghal Railway Company.	Midland Great Western of Ireland Railway Company.†
Cork River Steamers Company.	Passenger Assurance Company.
Cork Steam Ship Company.	Ulster Railway Company.†
Dublin and Belfast Junction Railway Company.†	Waterford and Kilkenny Railway Company.†
Dublin and Drogheda Railway Company.†	Waterford and Limerick Railway Company.†
Dublin and Glasgow Steam Packet Company.	Waterford and Tramore Railway Co.
Dublin, Wicklow, and Wexford Railway Company.	Waterford Steam Ship Company.

^a "The Clearing House Act (Ireland) 1860 :—" ante, XL.

† See also List of Parties to Clearing House in London, p. 431-2.

APPENDIX.

XLI.—TRAMWAYS ACT, IRELAND.

23 & 24 VICT. CAP. 152.

An Act to facilitate internal Communication in *Ireland* by means of Tramroads or Tramways.

[28th August, 1860.]

WHEREAS it would be of great public and local Advantage if Powers were given to Persons desirous to promote the Construction of Tramways in *Ireland*, to make use for that Purpose, under proper Control, of public Roads, Post Roads, and common Highways, where the same can be done without Injury to public Interests, and to purchase and hold such Lands contiguous to such Roads and Highways, or agreed to be sold by the Owners, as shall be found useful and necessary for the Completion of such Undertakings, and to use such Tramways for the Conveyance of Passengers, Produce, Minerals, Merchandise, and other Goods, in Carriages, Waggon, and Trucks moved by Animal Power^a: Be it therefore enacted^b. . . . as follows:

Preamble :
Objects of
the act.

i. Any Persons intending to apply under this Act for Authority to make and maintain a Tramway, which Persons are hereinafter called the Promoters, shall in the Months of *April* and *May*, or either of them, immediately preceding the Application, publish Notice of their Intention by Advertisement, according to the Regulations contained in Schedule (A.) to this Act, Part I.^c: Provided always, that it shall not be com-

Interpreta-
tion; "Pro-
moters."

Preliminary
Notice and
Application.

Proviso:

^a "Every tramway made under this act shall be worked by animal power only:"—§ xxiv, p. 442.

^b See note ^a in p. 401.

^c Part I of Schedule A, for regulating notices by Advertisement; p. 454.

No Tramway to be made to unite places having Railway connection, or where Powers for same exist.

Deposit of Notice, Map, Plan, and Reference, &c.

Notice to Owners, Lessees, and Occupiers of Lands.

Deposit of Memorial, Draft Order, Estimate, and List of Owners, Lessees, and Occupiers.

petent to make Application for a Tramway or Tramways, under the Provisions of this Act, to unite Places between which Statutory Powers for making a Railway or Railways for directly connecting the same shall have been granted and be in force.

ii. On or before the First Day of *May*^a in the same Year, the Promoters shall deposit with the Secretary of the Grand Jury of any County within which the Tramway is proposed to be made^b—

1. A Copy of the Advertisement published by them ;
2. A published Map, to a Scale of not less than a Quarter of an Inch to a Mile, with the Line of the proposed Tramway delineated thereon, so as to show its general Course and Direction ;
3. A Plan, Book of Reference, and Section, prepared according to the Regulations contained in Schedule (A.) to this Act, Part II.^c ;

and with the County Surveyor^b and the Clerk of each Union through which the Tramway is proposed to be made, a Copy of each of the same Documents^d.

iii. On or before the Second Day of the same Month of *May*, the Promoters shall give to the Owners or reputed Owners, Lessees or reputed Lessees, and Occupiers, of all Lands which the Promoters intend to apply for Power to take, Notice of their Intention, according to the Regulations contained in Schedule (A.) to this Act, Part III.^e.

iv. On or before the Twelfth Day^a of the same Month of *May*, the Promoters shall deposit with the Secretary of the said Grand Jury^b—

1. A Memorial of the Promoters, signed by them or some or One of them, addressed to the Lord Lieutenant in Council, praying for an Order in Council authorizing

^a And see § xxxiv, as to hours, &c., for making deposits.

^b And see § vi, as to cases where the Tramway is to extend into more than one County ; and § xli, as to deposit with Admiralty in case of tidal lands.

^c Part II of Schedule A, for regulating the manner in which Plans and Sections, and Books of Reference, are to be prepared :—p. 455.

^d And under § xxi, in case of alterations authorized by Order in Council, Plans and Sections of all such Alterations are to be deposited in like manner, and also with the Board of Works, before beginning to make the Tramway :—§ xxi, p. 441.

^e Part III of Schedule A, for regulating Notices to Owners, Lessees, and Occupiers of Lands, with Form of Notice, &c., p. 457, 458, 459.

the making of the Tramway, with a Draft of the proposed Order scheduled to the Memorial;

2. An Estimate of the Expense of the Undertaking, signed by the Person making the same;
3. Lists of the Owners and others to whom the Promoters have given such Notice as is herein-before required^a, prepared according to the Regulations contained in Schedule (A.) to this Act, Part IV.^b;

and with the County Surveyor^c a Duplicate of each of the same Documents.

v. At the Summer Assizes of the same Year, the said Grand Jury^d shall, on the Application of the Promoters, inquire whether or not the Requirements contained in the foregoing Enactments have been complied with (for which Purpose they shall have Power to summon Witnesses, and require the Production of Documents, and take Evidence on Oath or otherwise), and shall hear any Person interested in contending that such Requirements have not been complied with who shall lodge with the Secretary of the Grand Jury a Memorial complaining of Non-compliance in some Particular specifically stated in such Memorial, and shall then proceed to inquire generally into the *prima facie* Merits of the Undertaking. With reference thereto, the Grand Jury shall take into consideration the Report of the County Surveyor on the Undertaking (who is hereby required to make a Report thereon to the Grand Jury^e, and to deliver a Copy thereof to the Promoters Three clear Days at least before the Inquiry by the Grand Jury), and shall hear in Opposition to the Application any Owner, Lessee, or Occupier of any Lands proposed to be taken for the Purposes of the Undertaking, or alleged to be injuriously affected thereby, and any Railway or other Company or Person desiring to be heard in Opposition on the Ground of Competition, or any Part of whose Rails, Trams, Stations, Works, or Accommodations is proposed to be taken or in any Manner used or interfered with for the Purposes of

Preliminary Inquiry by Grand Jury at Summer Assizes.

Report of County Surveyor.

Hearing of opponents by Grand Jury: i.e. of Land Owners, &c.; of Railways, &c.; of Inhabitants.

^a § iii.

^b Part IV of Schedule A, for regulating Lists of Owners, &c., assenting, dissenting, or nouter:—p. 460.

^c See note ^b in p. 434.

^d See special provisions in § xxvii, xxxviii, as to counties of Dublin and City of Dublin, and places where the roads are not under control of the Grand Jury of the county.

^e And see § x, as to further report by County Surveyor at a subsequent stage, as well as report by Board of Works.

Approval,
disapproval,
or modifica-
tion, by
Grand Jury.

Appeal
against
Grand Jury's
approval, to
Lord Lieu-
tenant in
Council.

Tramway not
wholly in
One County.

Appeal to
Lord Lieu-
tenant in
Council
against Dis-
approval by
Grand Jury.

On Disap-
proval by
Grand Jury,
or on Appeal
being dis-
allowed, Ap-

the Undertaking, and the Inhabitants of any Town, Place, or District alleged to be injuriously affected by the Undertaking. The Grand Jury shall then approve provisionally or disapprove, as they may think fit, of the Undertaking, with or without Modification, having regard to the Compliance or Non-compliance of the Promoters with the Requirements aforesaid, and to the *prima facie* Merits of the Undertaking, in engineering, financial, and other respects; and such provisional Approval or such Disapproval (with, in case of Disapproval, the Grounds thereof,) shall be certified in Writing under the Hand of the Secretary of the Grand Jury; and in all Cases where the proposed Undertaking is provisionally approved of by any Grand Jury or Grand Juries^a, it shall be lawful for any Railway Company or Owner of Land who may have opposed the Application for the same to appeal against any such provisional Approval to the Lord Lieutenant in Council, who shall, as soon as may be, inquire into the Grounds of such provisional Approval, and allow or disallow the Appeal.

vi. Where the proposed Tramway does not lie wholly within One County, the foregoing Enactments shall apply equally to every County within which any Part of it lies, except that the Promoters may, if they think fit, deposit with the Secretary of the Grand Jury and the Surveyor of any County, and the Clerk of any Union^b, such Plan, Book of Reference, Section, Estimate, and Lists only as relate to so much of the proposed Tramway as lies within that particular County.

vii. Where the proposed Tramway does not lie wholly within One County, and the Undertaking is provisionally approved of by any One of the Grand Juries before whom the Application comes, but is disapproved of by any other or others of such Grand Juries, it shall be lawful for the Promoters to appeal against such Disapproval to the Lord Lieutenant in Council, who shall, as soon as may be, inquire into the Grounds of Disapproval, and allow or disallow the Appeal^c.

viii. Where the proposed Tramway lies wholly within One County and the Grand Jury of that County disapproves of the Undertaking, and also where the proposed Tramway does not lie wholly within One County and either the Grand Juries of all the several Counties disapprove of the Undertaking or

^a See § vi, where tramway would extend into more than one county.

^b § ii, iv.

^c See § xii, as to Notice of appeal by promoters.

any One of them disapproves of it, and no Appeal is brought against such Disapproval, or any Appeal brought is disallowed, then and in every such Case the Application of the Promoters shall be deemed to have wholly failed.

Application deemed to have failed.

ix. In every other Case^a, the Commissioners of Public Works, hereinafter called the Board of Works, as soon as may be after such provisional Approval or such Allowance of Appeal as aforesaid, on the Application of the Promoters, and on being furnished by them with Duplicates of all such Plans and other Documents as are herein-before required to be deposited^b, and with all such other Plans and Documents and all such other Information as the Board of Works may require, shall, by such fit Persons or Person as they shall appoint for the Purpose, make public Inquiry^c concerning the Merits of the Undertaking (to be held on or near some Part of the Lands proposed to be taken for the Tramway, and according to the Regulations contained in Schedule A. to this Act, Part V.^d), and shall report their Opinion thereon, and by such Report recommend, if they think fit, any such Modification of the Undertaking, in an engineering or financial or other respect, as may seem to them of public or local Advantage.

On Approval by Grand Jury or Lord Lieutenant, Deposited Plans, &c., to be furnished to Board of Works;

who are to cause public Inquiry, and report on the proposed Tramway.

x. At the Spring Assizes next after the said Summer Assizes, the Grand Jury of each County^e within which any Part of the proposed Tramway lies, shall on the Application of the Promoters take into consideration the Report of the Board of Works, and also the further Report^f of the County Surveyor of the Undertaking (who is hereby required to make a further Report^f thereon to the Grand Jury, and to deliver a Copy thereof to the Promoters Three clear Days at least before the Inquiry by the Grand Jury), and shall hear in Opposition to the Application any such Owner, Lessee, Occupier, Company, Person, or Inhabitants as aforesaid. The Grand Jury shall then definitively approve or disapprove, as they may think fit, of the Undertaking, with or without Modification, having regard to the Merits of the Undertaking

At Spring Assizes, further consideration by Grand Jury, on reports, and hearing of parties :

and definitive approval or disapproval :

^a i.e., where the Tramway is approved by Grand Juries or by the Lord Lieutenant in Council on appeal, under § 7-viii.

^b § ii, iv.

^c And see § xli, in case of Tidal Lands.

^d Part V of Schedule A, for regulating Inquiries by Board of Works, p. 460.

^e See special provisions in § xxxvii, xxxviii, as to counties of Dublin and City of Dublin, and places where the roads are not under control of the Grand Jury of the County.

^f Previous report of County Surveyor, § v.

to be certified
by Secretary
of Grand
Jury.

Appeal by
Promoters
against ad-
verse deci-
sion :
final.

Notice of
Appeal by
Promoters :

Lord Lieu-
tenant, on the
Appeal, to
consider
reports, &c. ;

and hear
opponents.

On defini-
tive Ap-
proval, Lord
Lieutenant
to make
Order in
Council
authorizing
Tramway.

Confirmation
of Order by
Act of Par-
liament :

Order of no
effect until so
confirmed.
Directions as
to Act.

in engineering, financial, and other respects, which definitive Approval or Disapproval (with, in case of Disapproval, the Grounds thereof,) shall be certified in Writing under the Hand of the Secretary of the Grand Jury.

xi. On the Conclusion of such Proceedings at the Spring Assizes, the Promoters shall have the like Right of Appeal as is herein-before given to them^a in respect of Proceedings at the Summer Assizes ; and on definitive Disapproval or on Disallowance of Appeal, (as the Case may be,) the Application of the Promoters shall be deemed to have wholly failed.

xii. On the Promoters bringing an Appeal, they shall give Notice thereof by Advertisement inserted in the *Dublin Gazette* and in the same Newspaper or Newspapers in which the Advertisement required by Section i. of this Act^b was inserted by them. On any such Appeal, the Lord Lieutenant in Council shall, as far as may be requisite, take into consideration all such Reports and Documents and other Things relative to the Undertaking as were before the Grand Jury whose Disapproval is appealed from, and shall hear in Opposition to the Appeal any such Owner, Lessee, Occupier, Company, Person, or Inhabitants as aforesaid^c.

xiii. Where the Undertaking is definitively approved of by the only Grand Jury or by all the Grand Juries before whom the Application comes, or all Appeals against the Disapproval of it are allowed, then and in every such Case the Lord Lieutenant in Council shall settle and make an Order in Council, authorizing the making and maintaining of the Tramway, subject and according to the Provisions of this Act, by such Persons or Person or Body Corporate or Company, in such Manner, subject to such Restrictions and Provisions, and on such Terms and Conditions, as shall be therein specified.

xiv. Thereupon, and on the Promoters doing everything required to be done by them by any Provision for securing the Completion of the Tramway^d applicable in their Case, the Lord Lieutenant in Council shall, as soon as conveniently may be, procure all necessary Steps to be taken for the Confirmation of such Order in Council by Act of Parliament ; and until such Confirmation, the Order shall have no Effect whatever. The Bill for any such Act shall be introduced on or before

^a § vii, as to previous appeal by Promoters ; and § xii, as to Notice of Appeal.

^b Part I of Schedule A, regulating notices by advertisement ; p. 454.

^c § v. ^d See § xxix, as to security for completion of the tramway (p. 444.)

the First of *June*^a, and treated in all respects as a Public Bill. The Order to be confirmed by the Bill shall be specified in a Schedule to it, but shall not be set out at length therein. The Promoters shall deposit, for the Use of the Members of the Houses of Parliament respectively, so many Copies of the Order, in such Offices of the Houses respectively, as the Clerk of the Parliaments and the Speaker of the House of Commons respectively may from Time to Time direct.

xv. Where the Promoters desire that a Joint Stock Company shall be constituted for the Execution of the Undertaking, the Order authorizing the making of the Tramway shall contain proper Provisions, with apt Terms, for uniting into a Company for that Purpose such Persons as shall be named or referred to therein, being Subscribers to the Undertaking, and for incorporating them into a Company, by an appropriate Name, with perpetual Succession and a Common Seal, and with Power to purchase and hold Land for the Purpose of the Undertaking, subject and according to the Restrictions of this Act and of the Order.

Constitution of a Company, by the Order, where so desired by Promoters.

xvi. Every such Order shall prescribe the Amount of the Share Capital of the Company, (the same and every Part thereof to be applied only in carrying into execution the Objects and Purposes of the Order,) the Number of the Shares into which the Capital shall be divided, the Amount of each Share, the Amount and Intervals of Calls, and the maximum aggregate Amount to be called within a certain Time.

Share Capital and Calls to be regulated by the Order.

xvii. Any such Order may (where it seems to the Lord Lieutenant in Council expedient) empower the Company to borrow on Mortgage or Bond such Money as in the Order shall be specified, (the same and every Part thereof to be applied only in carrying into execution the Objects and Purposes of the Order,) and may provide, in such Manner as may seem fit, for the Payment of Interest on and the Discharge of the Principal Money borrowed, and for the Appointment of a Receiver on behalf of Mortgagees : Provided always, that no such Order shall empower the Company to borrow more Money in the whole than One Third of the Amount of their Share Capital, or to borrow any Money whatever until the whole of their Share Capital is subscribed for, and One Half of it is actually paid up, and they prove to the Justice who is to

Borrowing Powers may be given to the Company by the Order:

Proviso : Limitations of borrowing powers.

^a In the same year? i.e., the second, or year after commencement of the preliminary proceedings :—or “as soon as conveniently may be” after the Spring Assizes and Appeal (§ xi, xii,) and after completion of the order and security (§ xiii, xiv, xxix.)

certify, under the Provisions contained in the Fortieth Section of the Companies Clauses Consolidation Act, 1845^a, that all such Capital has been subscribed for *bonâ fide*, and is held by Subscribers or their Assigns, and for which such Subscribers or their Assigns are legally liable.

First Meeting of Shareholders, and Management, &c., of Company, to be regulated by the Order in Council.

General Consolidation Act, &c., to be incorporated with Order in Council:

8 Vic. c. 16.
8 Vic. c. 18,
&c.
8 Vic. c. 20.
14 & 15 Vic.
c. 70, &c.

xviii. Every such Order shall prescribe the Time within which the First General Meeting of the Shareholders shall be held; and may prescribe or provide for any such Thing relating to the Constitution, Management, Rights, Powers, or Duties of the Company as is ordinarily prescribed or provided for in a Special Act authorizing the Construction of a Railway and incorporating a Company for that Purpose^b.

xix. Every such Company, and no other,^c shall be deemed to be a Tramway Company within the Meaning of this Act; and (subject to the other Provisions of this Act) the Companies Clauses Consolidation Act, 1845, shall apply to every Tramway Company, and shall be incorporated with the Order constituting it, and (subject as aforesaid) the Lands Clauses Consolidation Act, 1845^d, the Railways Clauses Consolidation Act, 1845, and the Railways Act (*Ireland*), 1851^e, shall apply to every Tramway authorized by any Order (whether a Tramway Company is thereby constituted or not), and shall be incorporated with every such Order^f.

^a 8 Vic. c. 16, § 40: *Hand-book*, VI, p. 74.

^b From 1840 (when general legislation as to Railways had only begun, although special legislation had been going on for many years previously,) to 1860, there have been about 1,665 special Railway Acts, a perusal of which, especially those of later years, may enable the reader to collect what "is ordinarily prescribed or provided for in" such acts; and some assistance in regard to the rather vague but comprehensive provisions of this section may perhaps be derived from the Orders of Parliament, containing standing requirements in regard to some of the provisions of such acts. Most of the matters alluded to are, nevertheless, the subject of analogous enactments in the present act; as § xvi et seq., and Schedules. The general Railway Acts, &c., are elsewhere incorporated with this act or orders under it; see § xix, xxiii, xli, xlvi, and xlviii.

^c i.e., every Company duly constituted and regulated by the order in Council under the previous sections.

^d The Lands Clauses Consolidation Act, 1845, (8 Vic. c. 18) is amended by the act of 1860, 23 & 24 Vic. c. 106, which is to be taken with it; but special provision is made in regard to Ireland by 14 & 15 Vic. c. 70 (1851,) amended by 23 & 24 Vic. c. 97 (1860). See all these acts in the *Hand-book* and *Supplement*.

^e 14 & 15 Vic. c. 70 (1851,) amended by 23 & 24 Vic. c. 97 (1860); see § 8 of latter act:—*Hand-book*, XX, and *Supplement*, XXXVIII.

^f But see § xxiii (p. 442) as to provisions directed to be excepted from such incorporation; and giving power to "vary or except" any *other* provisions of any of these acts. And see § xlvi (p. 452,) under which a Schedule-full of other acts are made to apply to Tramways under this act; in addition to which there are acts amending them, but not mentioned.

xx. In the Construction of the said Acts, in connection with any such Order,—

The Expression “the Special Act,” used in the said Acts, shall be taken to mean or apply to any such Order as and when confirmed by Act of Parliament ;

The Expressions “the Undertaking” and “the Railway,” used in the said Acts, shall be respectively taken to mean or apply to the Tramway and Works by such Order authorized ;

The Expression “the Company,” used in the said Acts, shall be taken to mean, as to the Companies Clauses Consolidation Act, 1845, a Tramway Company, and as to the said other Acts, the Persons or Person or Body Corporate or Company authorized by any such Order to make a Tramway ;

and the said Acts shall be read as if the Board of Works were therein named instead of “the Board of Trade,” and as if *Dublin* were therein named instead of *London*.

xxi. It shall not be lawful for the Persons authorized to make a Tramway under this Act, to begin to make the same, without first depositing, in like Manner as a Plan and a Section are herein-before required to be deposited^a, a Plan and a Section (prepared in like Manner as the original Plan and Section) of all such Alterations from the original Plan and Section as shall be authorized by the Order in Council, and without also first furnishing a Duplicate thereof to the Board of Works.

xxii. For the Purposes of the Application of the Railways Act (*Ireland*). 1851, to a Tramway under this Act, any Map, Plan, Book of Reference, and Section, furnished to the Board of Works under this Act^b, shall be sufficient ; and the same shall be used and proceeded on in lieu of the Maps or Plans and Schedules of Lands, Works, and Names by the last-mentioned Act required^c. Such Estimates, and such Draft Award, and Copies thereof and of Parts thereof, as are by the same Act required^d, shall be deposited in like Manner as Plans and other Documents are herein-before^e required to be deposited,

Interpreta-
tion of Acts
incorporated
with Order :
“Special
Act;”

“Undertak-
ing;”
“Railway,”
or “Tram-
way;”

“Company;”

Board of
Works for
“Board of
Trade;”
Dublin for
“London.”

Plan and
Section of any
authorized
Alterations
to be depo-
sited before
Tramway is
begun.

Plan and
Section fur-
nished to
Board of
Works to be
sufficient for
Purposes of
14 & 15 Vict.
c. 70.

^a i e., with Secretaries of Grand Juries, County Surveyors, and Clerks of Unions (§ ii, p. 434 ; § vi, p. 436) ; and Board of Works, § ix, p. 437.

^b § ix, xxi.

^c 14 & 15 Vic. c. 70 (1851) § 4 ; *Hand-book*, XX, p. 302-3.

^d *Ibid*, § 4, 9 ; p. 302, 305.

and not otherwise ; and the Terms of Notice of Deposit to be published under that Act^a shall be altered accordingly.

Excepted
Provisions of
incorporated
Acts.

xxiii. The Provisions of the said Acts directing Deposits to be made with Clerks of the Peace (except the Provisions relative to Access to the Special Act) and with Clerks of Poor Law Unions and Postmasters^b, and the Provisions with respect to the Crossing of Roads^c and other Interferences therewith^d (other than the Provisions of the Railways Clauses Consolidation Act, 1845, Sections 65, 66, 67), and the Provisions with respect to the Use of Locomotive Engines or other Moving Power^e, not being Animal Power^f, shall be excepted out of the Incorporation herein-before made^g ; and it shall be lawful for the Lord Lieutenant in Council, in and by any such Order, if the Circumstances of the Case appear so to require, to vary or except any of the Provisions of any of the said Acts.

Construction,
&c., of Tram-
way :
Animal
Power ;
Iron Rails or
Trams ;
Gauge ;
Along or
across Roads,
Streets, &c.

xxiv. Every Tramway made under this Act shall be worked by Animal Power only ; and shall (unless in any case the Order in Council otherwise provides) be constructed with Iron Rails or Trams, and on the Gauge of Five Feet Three Inches. Any such Tramway may be authorized to be constructed wholly or partly along or across any Post Road, Road now or formerly a Turnpike Road, public Highway, Street, Square, Market Place, Court, Lane, Alley, Bridge, or Quay, or other public Thoroughfare, Passage, or Place whatsoever, on the Level.

Tolls and
Charges may
be Regulated
by the Order
in Council ;

xxv. Any such Order in Council may prescribe the maximum Tolls and Rates of Charge to be taken and made for Passengers, Animals, and Things conveyed on the Tramway, not exceeding the Tolls and Rates of Charge specified in Schedule (B.) to this Act^h, and may make Regulations for the Calculation and Charging thereof ; and in the Absence in any

but not to
exceed Sched-
ule to Act.

^a See § 8 of 14 & 15 Vic. c. 70 (1851), *Hand-book*, p. 304 ; amended by § 1 of 23 & 24 Vic. c. 97 (1860), *Supplement*, p. 409.

^b As 8 Vic. c. 20. § 7, 9, &c. ; see Index to *Hand-book*.

^c This appears, however, not to refer to § 13 of 5 & 6 Vic. c. 55, which is not one of the acts previously named, but is in § xlv made to apply to tramways under the present act, where not inconsistent therewith. Express power is given by § xxiv to construct Tramways along or across Roads, Streets, &c.

^d As 8 Vic. c. 20, § 46 et seq. : see *Hand-book*.

^e As 8 Vic. c. 20, § 114 et seq. : see *Hand-book*.

^f The Tramways are to be worked by Animal Power only : see § xxiv.

^g § xix.

^h Schedule B ; Maximum Tolls and Scale of Charges, and Regulations thereon ; for Passengers, Goods, Animals, Small Parcels, and Articles of great Weight ; and Regulations for Calculating Tolls ;—p. 461-464.

Case of any special Provisions for those Purposes, or so far as any such special Provisions shall not extend, the maximum Tolls and Rates of Charge, and the Regulations, shall be those specified in the same Schedule^a.

xxvi. It shall be lawful for the Lord Lieutenant in Council, on the like Proceedings and Inquiry as are herein-before specified^b being taken and made, to make an Order authorizing the varying, extending, or enlarging of any Tramway already authorized, and the Maintenance of the Tramway as and when so varied, extended, or enlarged. No such Order shall have any Effect until confirmed by an Act of Parliament, Proceedings for the obtaining of which shall be taken in Manner herein before provided^c with respect to an original Order for the making of a Tramway.

Extension, varying, enlargement of Tramway :
by Order in Council ;
and on Confirmation by Parliament.

xxvii. It shall be lawful for the Lord Lieutenant in Council, by Order, when the Circumstances of any Case appear to render it expedient, to extend the Time limited for the Completion of a Tramway, or to authorize the Abandonment of all or any Part of a Tramway : Provided always, that it shall not be lawful for the Lord Lieutenant in Council to make any such Order without Notice being given to the Owners or reputed Owners, Lessees or reputed Lessees, and Occupiers of the Lands in which the Work or the Part thereof intended to be abandoned is situate, or without Notice being given to such other Persons or Authorities as the Lord Lieutenant in Council may think fit, or without hearing any Person or Authority concerned and desiring to be heard. No such Order shall have any Effect until confirmed by an Act of Parliament, Proceedings for the obtaining of which shall be taken in manner herein-before provided^c with respect to an original Order for the making of a Tramway.

Time for Completion may be extended, or Abandonment of Tramway may be authorized ;
upon previous Notice being given,
and Parties being heard.
Confirmation by Parliament.

xxviii. Provided always, That any Order in Council authorizing the Abandonment of a Tramway, or any Part thereof, shall be made and take effect subject to the following Restrictions and Conditions :

In case of order for Abandonment,

1. The Order shall contain such Provisions as may appear expedient for compelling the Owners of the Tramway to make good any Damage that may have been caused to any Post Road, Turnpike Road, public Highway, Street, Square, Market Place, Court, Lane, Alley, Bridge, or Quay, or other public Thoroughfare, Pas-

Damages to be made good ;

^a Schedule B, p. 461-4.

^b § i-xiii.

^c § xiv.

sage, or Place, by or in consequence of the making of the Tramway, or of the Part thereof authorized to be abandoned (as the Case may be) :

and Lands taken may be appropriated for Highway Purposes;

2. If, on the Application for the Order, it is shown to the Lord Lieutenant in Council that all or any Lands acquired by the Owners of the Tramway for the Purposes thereof, or of the Part thereof authorized to be abandoned (as the Case may be), may with Advantage be dedicated for Highway Purposes to the Use of the Public, and to that End be placed under the Control of the Grand Jury, Municipal Corporation, Body of Commissioners, or other Body having the Control of the public Roads in the County, City, Borough, Town Corporate, Place, or District where the Lands are situate, the Order in Council shall contain such Provisions in that Behalf as may appear expedient :

or Lands to revert to previous Owner.

3. In the Absence of any such Provisions, and so far as all or any such Provisions shall not extend, the Lands acquired by the Owners of the Tramway for the Purposes thereof, or of the Part thereof authorized to be abandoned (as the Case may be), shall go to and vest in the Person or Persons from whom the same were acquired, his or their respective Heirs, Successors, Executors, Administrators, or Assigns, (according to the Tenure of the Lands,) discharged from all Estates, Interests, and Claims of the Owners of the Tramway, or any Person claiming under them, and as if any Order authorizing the making of the Tramway had never been made or confirmed, or as near thereto as Circumstances will admit.

Security for Completion by a Company not already owning a Tramway open for Traffic :

xxix. Where the Promoters are not an existing Tramway Company and a Tramway Company is constituted by the Order in Council^a authorizing the Undertaking, and also where the Promoters are an existing Tramway Company but are not possessed of a Tramway actually open for Traffic, then and in every such Case the Promoters shall give Security for the Completion of the proposed Tramway as follows :

Deposit of one-twentieth of estimated

1. Within Forty-eight Hours after the making of the Order, they shall, with the Privy^b of the Accountant Gene-

^a § xv et seq.

^b See provision at close of clause 2 of this section, for lodgment without such privy in case of the Accountant General's office being closed at the time.

of the Court of Chancery, either pay in his Name into the Bank of *Ireland* a Sum of Money equal to One Twentieth Part of the estimated Cost of the Undertaking, or deposit in his Name in the Bank of *Ireland*, or transfer into his Name there, Exchequer Bills or other Government Securities equivalent to that Sum at the Price at which such Bills or Securities were originally purchased by the Promoters (to be proved by the Broker's Certificate of such Purchase):

Cost; within 48 hours after Order.

Before making any such Payment, Deposit, or Transfer, they shall obtain from the Clerk of Her Majesty's Privy Council in *Ireland* a Warrant under his Hand authorizing the same, and stating the Title of the Account to which such Money, Bills, or Securities shall be placed; which Warrant shall be sufficient Authority to the said Accountant General for permitting such Payment, Deposit, or Transfer: Provided always, that in case of the Accountant General's Office being closed at the Time when any such Payment, Deposit, or Transfer is required, the same may be made and shall be received and acted on by the Bank of *Ireland* without his actual Privity:

Warrant authorizing Deposit:

Proviso, in case of the Accountant General's office being closed.

The Court of Chancery, on the Petition in a summary Way of the Persons or Person making such Payment, Deposit, or Transfer, or the Majority of such Persons, or the Survivors or Survivor of them, herein-after called the Depositors or Depositor, may order that any Money so paid, or any Interest or Dividend accrued on any Bills or Securities so deposited or transferred, be invested in any such Securities as the Depositors or Depositor may desire and the Court approve:

Investment of Deposit, by Court of Chancery.

Interpretation; "Depositor."

In the following Cases, and not otherwise, the Court of Chancery, on the Petition in a summary Way of the Depositors or Depositor, shall order the Money, Bills or Securities so paid, deposited, or transferred, and any Securities in which any Investment may be made as aforesaid, and any Interest or Dividend accrued thereon respectively, to be paid or transferred to or into the Names or Name of the Depositors or Depositor; namely,

Payment of Deposit, Interest, &c., out of Court.

- (1.) If an Act of Parliament confirming the Order in Council with respect to which such Pay-

If an Act of Parliament does not pass.

in current or
next Session;

if Act does
pass, &c.

Forfeit of
Deposit to
Crown, if Act
pass and
Tramway be
not made,
&c., in time
limited.

Evidence as
to passing of

ment, Deposit, or Transfer is made, does not pass in the Session current at the Date of the Order, or, if Parliament be not then sitting, then in the Session beginning next after that Date :

(2.) If such an Act does so pass, and within the Time limited for the Completion of the Tramway the Company open it for Traffic, or prove to the Board of Works that they have paid up One Half of their Share Capital, and have expended for the Purposes of the Order a Sum equal to such Half, or else execute a Bond in twice the Amount paid into the Bank or represented by the Deposit or Transfer aforesaid, conditioned for Payment to Her Majesty, Her Heirs or Successors, of that Amount, in the Event of their failing either to open the Tramway for Traffic, or to give such Proof as aforesaid, within the Time limited for the Completion of the Tramway (such Bond to be prepared to the Satisfaction of and deposited with the Board of Works, and to be made with a Surety or Sureties approved of by the Board of Works):

5. If an Act confirming the Order passes as aforesaid^a, and the Time limited for Completion of the Tramway expires before it is opened for Traffic, or before such Proof as aforesaid is given, then the Money, Bills, or Securities paid, deposited, or transferred, and any Securities in which any Investment may have been made as aforesaid, and any Interest or Dividend accrued thereon respectively, or the Monies secured by any Bond given as aforesaid, (as the Case may be,) shall, immediately on the Expiration of the Time so limited, be forfeited to Her Majesty, and be paid or transferred, by the Officer or Person in whose Name the same shall then be standing, or by whom the same may be recovered and received, to the Account of Her Majesty's Exchequer, and shall then be carried to and form Part of the Consolidated Fund of the United Kingdom :

6. The Certificate of the Board of Works that a confirming

^a Clause "(1)."

Act of Parliament has or has not passed as aforesaid^a, or that the Tramway has or has not been opened for Traffic, or that such Proof or such Bond as aforesaid has or has not been given, shall be conclusive Evidence thereof.

Act, and opening of Tramway, &c.

xxx. Where an Order in Council authorizes an existing Tramway Company, being possessed of a Tramway actually open for Traffic, to make another Tramway, or extends the Time limited for the Completion by a Tramway Company of their Tramway, then and in every such Case the Order shall provide that after the Expiration of a Time thereby limited (not exceeding in the former Case Five and in the latter Case Three Years from the passing of the confirming Act), the Payment of Dividend on the Company's ordinary Capital shall be suspended until the Tramway to which the Order relates is opened for Traffic.

Suspension of Dividend, in certain cases, until opening of Tramway, to be provided for in Order :

xxxi. Where the Provisions of either of the Two last preceding Sections are not applicable, the Lord Lieutenant in Council shall make such other Provision as may seem fit for securing the Completion of the Tramway within the Time limited.

or other Security to be provided for Completion of Tramway.

xxxii. All Costs, Charges, and Expenses necessarily incurred in connection with the making of any such Order in Council, or any Proceeding preliminary thereto, shall be paid by the Promoters ; and all other Costs, Charges, and Expenses shall be in the Discretion of the Lord Lieutenant in Council.

Expenses of and preliminary to Order in Council, to be paid by Promoters : other Expenses.

xxxiii. For the Purposes of any Application made or intended to be made under this Act, it shall be lawful for the County Surveyor, his Assistants, Servants, and Workmen, and also for the Promoters, their Engineers, Surveyors, Agents, Servants, and Workmen, at all reasonable Times, and causing as little Inconvenience as may be, to enter on any Lands in or near the Line of the proposed Tramway, (not being Lands which cannot be authorized to be taken under this Act for the Purposes of a Tramway, without the Consent in Writing of the Owner thereof^b,) and to survey or otherwise examine the same, and to dig or bore therein ; provided that he or they first obtain Authority so to do in Writing under the Hand of a Justice of the Peace at Petty Sessions in and for the District where the Lands are situate, such Justice not having any pecuniary Interest in the Undertaking. The Promoters shall

Power to Promoters and County Surveyor, &c., to enter and survey Lands ;

Exception

under authority of a Justice of Peace.

Compensation for Damage.

^a Clause "(1)."

^b § xlii, xliii.

also make full Compensation for any Damage caused under this Provision, the Amount of such Compensation to be fixed by Two or more Justices of the Peace at Petty Sessions in and for the same District (whose Order shall be conclusive), and to be recovered as any Compensation Money for Lands taken by the Promoters is recoverable.

Deposits not to be made on Sundays; regulation as to Time.

xxxiv. No Deposit required by this Act^a shall be of any Effect if made on a *Sunday*; and any Deposit made after Eight o'Clock in the Evening of any Week Day but *Saturday* shall be deemed to be made on the following Day, and if made after that Hour on a *Saturday* shall be deemed to be made on the following *Monday*.

Grand Jury Secretary, and Union Clerk, to note Time of deposit; and permit Inspection, &c.

xxxv. The Secretary of a Grand Jury and Clerk of Union shall make a Memorandum in Writing on every Document deposited with him under this Act, showing the Time of Deposit; and shall permit any Person to inspect and examine the same at all reasonable Hours and during a reasonable Time, and to make Copies of or Extracts from it.

Proceedings of Grand Jury to be Part of Fiscal Business, and regulated accordingly.

xxxvi. Everything required to be done under this Act by the Grand Jury of a County shall be deemed to be a Part of their Fiscal Business; and all Enactments for the Time being in force respecting the Fiscal Concerns of a County, or the Fiscal Business to be transacted by a Grand Jury, before or at any Assizes, shall apply to everything done by a Grand Jury under this Act, so far as the same Enactments shall be applicable thereto.

Counties of Dublin and of City of Dublin.

xxxvii. With respect to the County of *Dublin* and the County of the City of *Dublin*, for the Purposes of this Act, Two successive Presenting Terms for those Counties respectively shall be in the Place of the Summer and Spring Assizes for other Counties; and the Times at which Notices shall be given, Deposits made, and other Proceedings taken shall be from Time to Time regulated by General Rules made in manner herein-after provided^b.

Tramway in City or Town, &c., where Roads are not under Control of County Grand Jury:

xxxviii. Where a proposed Tramway lies wholly or partly in a City, Borough, or Town Corporate, or other Place or District in which the public Roads are not under the Control of the Grand Jury of the County within which such City, Borough, Town Corporate, Place, or District is locally situate,—then and in every such Case, for the Purposes of this Act, the Grand Jury of the County of the City or County of the

^a § ii, iv, xxi, xxii, xxvi, xxix, xli.

^b § xlv.

Town, Municipal Corporation, Town or other Commissioners having the Control of the public Roads in such City, Borough, Town Corporate, Place, or District, or other Body having such Control,—or in case all such public Roads are not under the Control of any One such Body, then each such Body as to the public Roads under its Control,—shall be in the Place of the Grand Jury of the County, with all the like Rights, Powers, and Duties; and the Secretary, Town Clerk, Clerk, or other like Officer of any such Body, shall be in the Place of the Secretary of the Grand Jury of a County, with all the like Rights, Powers, and Duties; and (except as to the County of the City of *Dublin* which is herein-before^a provided for) Meetings of each such Body shall be held for the Purposes of this Act, at Times as nearly as may be corresponding with the respective Times of the Summer and Spring Assizes for the County within which such City, Borough, Town Corporate, Place, or District is locally situate:

Municipal Bodies to be in place of Grand Jury, in such case, for purposes of this Act;

and Officer in place of Secretary of Grand Jury.

Provided always, that the Power of any such Body (including the Municipal Corporation of the City of *Dublin*) to approve or disapprove of any Undertaking shall be subject to the following Restrictions:

City of Dublin.

1. Such Approval or Disapproval shall have no Effect unless it is determined on by a Majority of not less than Two Thirds of such Members of the Body as shall be present at a Meeting of the Body specially summoned by Notice in Writing, specifying the Time and Place and Object of the Meeting, delivered at the usual or last known Place of Abode of each Member of the Body Seven clear Days at least before the Day of the Meeting:

Mode of deciding as to approval or disapproval of Tramway, in case of Municipal Bodies;

2. Any Five Members of the Body dissenting from the Approval of any Undertaking may, within One Month after such Approval, appeal against the same to the Lord Lieutenant in Council; and on any such Appeal being brought, such Notice shall be given by Advertisement or otherwise, and such Persons shall be heard in support of and in opposition to the Appeal, as shall be from Time to Time directed by General Rules made in manner herein-after provided^b.

and appeal by dissenting Members against approval, to Lord Lieutenant in Council.

Provided also, that where in any such City, Borough, Town

Proviso for cases where

^a § xxxvii.

^b § xlv.

roads are
under other
control.

Corporate, Place, or District, the public Roads or any of them shall, by virtue of any special Agreement or by Usage or otherwise, be in Fact under the Control of a Body not being the Body in Law having or entitled to have such Control, then and in every such Case, for the Purposes of this Act, the Body in Fact having such Control shall be deemed to be the Body to which the present Provision applies.

Street Levels
for Tram-
ways passing
through
Towns, not
to be altered
without Con-
sent, or
otherwise
than as
herein pro-
vided.

xxxix. Where any Tramway shall be made through any City or Town, it shall not be lawful to alter the Level of any Street therein without the Consent of Two Thirds of the Owners of the Houses adjoining the same, or in such a Manner as to prevent convenient Access to all the Houses adjoining such Street; and in no Case shall the Level be altered more than Four Feet: and when any Street shall be so raised or sunk, the whole of the Surface of the Roadway of such Street shall be brought by the Promoters to the same Level, unless it shall appear to the Board of Works that such Alteration is objectionable.

Persons
interested
in Tramways
not to vote on
Grand Jury,
&c.:

xl. If any Member of a Grand Jury, Municipal Corporation, or Body of Commissioners, or other Body having the Control of the public Roads in any County, City, Borough, Town Corporate, Place, or District, shall be also the Promoter or Owner or One of the Promoters or Owners, or a Member or Shareholder of a Tramway Company being the Owners, of a Tramway lying wholly or in part within such County, City, Borough, Town Corporate, Place, or District, it shall not be lawful for him to vote on or otherwise act in relation to any Question directly or indirectly concerning such Tramway or Tramway Company; but no Member or Shareholder of a Tramway Company shall be disqualified from being a Member of any such Municipal Corporation, Body of Commissioners, or other Body as aforesaid, by reason of any Contract entered into between the Tramway Company and such Municipal Corporation, Body of Commissioners, or other Body: Provided always, that nothing herein-before contained shall be deemed to render invalid any Resolution or Act of a Grand Jury, Municipal Corporation, Body of Commissioners, or other Body as aforesaid, on or in relation to which any Person shall be found to have voted or acted contrary to this Enactment.

but not dis-
qualified
from being a
Member of
Municipal
Body, by
reason of
Contracts;

Proviso;
resolutions of
Grand Jury,
&c., not in-
validated by
such voting.

In case of
Tidal Lands,
Plan and

xli. Where any Part of a Tramway is proposed to be made on tidal Lands within the Flow of ordinary Spring Tides, the

Promoters shall, on or before the First Day of *May* in the Year in which their Application is begun, deposit with the Secretary of the Lord High Admiral of the United Kingdom, or the Commissioners for executing the Office of Lord High Admiral, a Copy of so much of the Plan and Section aforesaid^a as relates to such tidal Lands. The Board of Works, in the course of their public Inquiry^b, shall inquire whether or not the last-mentioned Requirement has been complied with, and shall take into consideration any Communication that the Lord High Admiral or Commissioners may think fit to make to the Board of Works respecting such tidal Lands, and shall in their Report respecting the Undertaking refer to such Communication, and state any Recommendation that they may think fit to make in consequence thereof. The Preliminary Inquiries Act, 1851^c, shall apply, *mutatis mutandis*, in respect of any Application for an Order in Council under this Act, as if the same were an Application to Parliament for such a Bill as is in that Act mentioned.

Section to be deposited at the Admiralty:

Inquiry by Board of Works.

xlii. Nothing in this Act, or in any Order under it, shall be deemed to authorize any Lands^d to be taken for the Purposes of the Undertaking without the Consent in Writing of the Owner^e thereof, except such Lands^d as may be not more than Thirty Feet distant at any Point on a Line drawn horizontally from the Centre of some Post Road, Turnpike Road, public Highway, Bridge, or Quay.

Lands, &c. not to be taken without Owner's Consent, except within thirty feet of public Roads &c.

xliii. Nothing in this Act, or in any Order under it, shall be deemed to authorize to be taken for the Purposes of the Undertaking any Mansion House, or House wholly built of Stone or Brick with Lime, or any of the Outbuildings or Offices thereof, or any Part of any Yard, Haggard, Garden, Orchard, or Plantation attached or belonging thereto, or any Part of any Deer Park or other Park or Demesne, or planted or ornamental Walk, Drive, Approach or Avenue, or of any Ground ornamentally planted, or of any Lawn or Bleach Green, without the Consent in Writing of the Owner^e thereof respectively, although the same may lie within such limited Distance as in the last preceding Section is mentioned.

Demesnes, &c., not to be taken without Owner's Consent, although within like distance.

xliv. Nothing in this Act, or in any Order under it, shall be deemed to empower the Owners or Promoters of a Tram-

Owners of Sewers, &c., not to be

^a § ii; xxvi. ^b § ix. ^c 14 & 15 Vic. c. 49 (1851):—Post, XLII.

^d "Lands:" i.e., Lands, Houses, Buildings, &c.; § xlix.

^e For interpretation of "Owner," see § xlix.

impeded
from Access
to same;

nor to be
liable for
compensa-
tion to
Tramway for
Damage, &c.

General
Rules may be
made by Lord
Lieutenant in
Council for
execution of
this Act, regu-
lating Ap-
peals, Inqui-
ries, Fees,
Costs, &c. :

and rules may
be revoked or
amended :
but rules not
to take effect
till a month
after publi-
cation in
Gazette and
before Par-
liament.

General
Railway
Acts in
Sched. (C.)
to apply to
Tramways.

Interpreta-
tion :
" Railway ;"
" Company."

" Board of
Trade,"
Board of
Works ;

" Secretary at
War," In-
specter Gene-
ral of Cou-
stabulary.

way to impede, at any Time, the Owners of any Sewer, Drain, Main, or Pipe from having Access to the same for the Purpose of cleansing, repairing, removing, adding to, or amending it, or to give the Owners or Promoters of a Tramway any Claim for Compensation or Damages for or by reason of any unavoidable Injury to or for any temporary Stoppage of the Tramway that may be necessary for or in the Execution of any such Cleansing, Repair, Removal, Addition, or Amendment.

xliv. It shall be lawful for the Lord Lieutenant in Council, by Order, to make from Time to Time such General Rules as may seem fit, for the effectual Execution of this Act, and the Regulation of the Procedure on Appeals, and on Inquiries by the Board of Works, and generally of all Proceedings under this Act, and also for fixing the Amount of any Fees, and the Allowance, Taxation, and Payment of any Costs, Charges, and Expenses to be taken, allowed, and paid under this Act, and for the Remuneration of any County Surveyor, Engineer, Surveyor, or other Person employed in the Execution of this Act under the Direction or Authority of a Grand Jury or of the Board of Works or otherwise ; and from Time to Time to revoke or amend any such Rules ; but no such Rules shall have any Effect until the Expiration of One Month after the same shall have been published in the *Dublin Gazette* and laid before both Houses of Parliament.

xlvi. The Acts specified in Schedule (C.) to this Act^a shall, as far as Circumstances will admit, and as far as those Acts are not inconsistent with this Act, apply to Tramways under this Act^b. For the Purposes of those Acts, a Tramway under this Act shall be deemed to be a Railway (although the Moving Power is Animal only^c), and the Word " Company " in any of those Acts shall be deemed to mean the Owners of a Tramway under this Act (whether a Company or not), and the Board of Works shall be deemed to be in the Place of the Lords of the Committee of Her Majesty's Privy Council appointed for Trade and Foreign Plantations, and with respect to the Constabulary, the Inspector-General of Constabulary shall be deemed to be in the Place of the Secretary-at-War,

^a Schedule C, enumerating some of the General Acts made applicable to Tramways, p. 464.

^b And under § xix, a clause-full of other acts are to apply to Tramways under this act, and to be incorporated with it by the Order in Council, except as excepted and varied under § xxiii : besides acts amending them, but not mentioned.

^c As required by § xxiv, p. 442.

in any of those Acts mentioned : Provided always, that with respect to Tramways under this Act, such Rates of Speed as the Board of Works may from Time to Time direct, shall be deemed to be substituted in Sections 6 and 11 of the Act fourthly in the same Schedule specified, for the Rates therein respectively mentioned or referred to^a.

Rates of Speed for Parliamentary and Mail Trains to be regulated by Board of Works.

xlvi. Nothing in this Act, or in any Order under it, shall be deemed to exempt any Tramway from the Provisions of any future General Act relating to Tramways or Tramway Companies, or their Accounts, or from any future Revision or Alteration, under Authority of Parliament, of the maximum Tolls or Rates of Charge authorized by this Act, or any Order under it.

Tramways not exempted from future General Acts.

xlvi. Provided always, That if at any Time it shall appear to the Lord Lieutenant in Council to be expedient that any Provision that may be hereafter adopted in the Standing Orders of either House of Parliament relative to Private Bills should be applied to Tramways or Proceedings under this Act, it shall be lawful for the Lord Lieutenant in Council, by Order, to apply such Provision accordingly in such Manner as may seem fit, notwithstanding that the same may be inconsistent with any of the Regulations contained in the Schedules to this Act ; and from Time to Time to revoke or amend any such Order ; but no such Order shall have any Effect until the Expiration of One Month after the same shall have been published in the *Dublin Gazette* and laid before both Houses of Parliament.

Future Standing Orders of Parliament may be applied by Order in Council to Tramways ; and such Order may be amended or revoked : Orders not to take effect for a month after publication in *Gazette* and before Parliament.

xlix. In this Act,—

The Expression “the Lord Lieutenant in Council” means the Lord Lieutenant or other Chief Governor or Governors of *Ireland* for the Time being, by and with the Advice of Her Majesty’s Privy Council in *Ireland* ;

Interpretations :

“Lord Lieutenant in Council.”

The Word “County” includes any Riding or Division of a County for which Riding or Division separate Assizes are held, but not a County of a City or County of a Town ;

The Word “Lands” includes Lands, Houses, Buildings, and Hereditaments of any Tenure ;

“Lands.”

The Word “Owner,” used with reference to Lands^b, means “Owner.”

^a Schedule C, p. 464 :—7 & 8 Vic. c. 85 (1844) ; § 6 as to Parliamentary Trains ; § 11 as to Mail Trains :—*Hand-book*, V, 6, 11, p. 45, 48.

^b “Lands ;” including Lands, Houses, Buildings, and Hereditaments, of any Tenure, as in previous part of section.

any Person who, under the Provisions of any Order in Council made under this Act, is enabled to sell and convey Lands^a to the Owners of a Tramway ;

" Person ;"
Company, or
Corporate
Body.

And the Words " Persons " and " Person " shall (unless there be something repugnant in the Subject or Context) be construed to include a Body Corporate or a Company.

Short Title of
Act.

k. This Act shall extend to *Ireland* only, and may be cited as "*The Tramways (Ireland) Act, 1860.*"

SCHEDULES ANNEXED TO TRAMWAYS ACT.

SCHEDULE A.

SCHEDULE (A.)

Part I.

PART I.—*Notices by Advertisement.*

*Notices by
Advertisement.*

What to be
stated in Ad-
vertisement.

1. Every Advertisement shall state—

(1.) The Objects of the intended Application :

(2.) The Description of the Termini, with the Names of the Parishes, Townlands, Townships, and Extra-parochial Places from, through, or into which the Tramway is intended to be made :

(3.) The Times and Places at which the Deposit required by Section ii. of this Act will be made :

(4) The Intention of the Promoters (if they intend) to apply for Powers for the compulsory Purchase of Lands.

Form of Ad-
vertisement.

2. The whole Notice shall be included in One Advertisement, which shall be headed with a short Title descriptive of the Undertaking.

In what
Newspapers
to be pub-
lished ; and

3. The Advertisement shall be inserted in Three successive Weeks in some one and the same Newspaper of the County in which the Lands to which the Application relates are situate ; or if there be none, then in a Newspaper of some adjoining or neighbouring County. Where the Application relates to Lands situate in more than One County, the Advertisement shall be inserted once in each of Three successive Weeks in a Newspaper published at least Twice a Week in Dublin, and in a Newspaper of the County in which is the principal Office of the Promoters, and in a Newspaper of every County in which any new Work is proposed to be executed, or in which any Lands are situate in respect of which any new or further Powers for the Completion of Works already authorized are intended to be applied for.

in Gazette.

4. The Advertisement shall in all Cases be also inserted once in the Dublin Gazette.

^a " Lands ;" including Lands, Houses, Buildings, and Hereditaments, of any Tenure, as in previous part of section.

^b § i, ii, p. 433-4 ; § xii, p. 438.

PART II^a.—Form in which Plans, Books of Reference, Sections and Cross Sections shall be prepared.

SCHEDULE A.

Part II.

Plan and Sections, &c.

Plan.

1. Every Plan required to be deposited shall be drawn to a Scale of **Plan, how** not less than Four Inches to a Mile, and shall describe the Line or **to be made.** Situation of the whole of the Work (no alternative Line or Work being in any Case permitted), and the Lands in or through which it is to be made, maintained, varied, extended, or enlarged, or through which every Communication to or from the Work shall be made; and where it is the Intention of the Parties to apply for Powers to make any lateral Deviation from the Line of the proposed Work, the Limits of such Deviation shall be defined upon the Plan, and all Lands included within such Limits shall be marked thereon; and unless the whole of such Plan shall be upon a Scale of not less than a Quarter of an Inch to every One hundred Feet, an enlarged Plan shall be added of any Building, Yard, Courtyard, or Land within the Curtilage of any Building, or of any Ground cultivated as a Garden either in the Line of the proposed Work or included within the Limits of the said Deviation, upon a Scale of not less than a Quarter of an Inch to every One hundred Feet.

2. The Plan shall exhibit thereon the Distances in Miles and Furlongs from One of the Termini; and a Memorandum of the Radius of every Curve, not exceeding One Mile in Length, shall be noted on the Plan in Furlongs and Chains; and where Tunnelling, as a Substitute for Open Cutting, is intended, such Tunnelling shall be marked by a dotted Line on the Plan.

3. If it be intended to divert, widen, or narrow any Turnpike Road, public Carriage Road, navigable River, Canal, Tramway, or Railway, the Course of such Diversion, and the Extent of such widening or narrowing, shall be marked on the Plan.

Book of Reference.

4. The Book of Reference to every such Plan shall contain the **Book of** Names of the Owners or reputed Owners, Lessees or reputed Lessees, **Reference.** and Occupiers, of all Lands in the Line of the proposed Work, or within the Limits of Deviation as defined upon the Plan; and shall describe such Lands.

Section.

5. The Section shall be drawn to the same horizontal Scale as the **Sections, how** Plan, and to a vertical Scale of not less than One Inch to One hun- **to be made.** dred Feet, and shall show the Surface of the Ground marked on the Plan, the intended Level of the proposed Work, the Height of every Embankment and the Depth of every Cutting, and a Datum horizon-

SCHEDULE A.

*Part II.**Plans and Sections, &c.**Sections, how to be made.*

tal Line, which shall be the same throughout the whole Length of the Work or any Branch thereof respectively. and shall be referred to some fixed Point (stated in Writing on the Section) near either of the Termini.

6. The Line of the Tramway marked on the Section shall correspond with the upper Surface of the Trams.

7. Distances on the Datum Line shall be marked in Miles and Furlongs to correspond with those on the Plan; a vertical Measure from the Datum Line to the Line of the Tramway shall be marked in Feet and Inches, of decimal Parts of a Foot, at each Change of the Gradient or Inclination; and the Proportion or Rate of Inclination between each such Change shall also be marked.

8. Wherever the Line of the Tramway is intended to cross any Turnpike Road, public Carriage Road, navigable River, Canal, Tramway, or Railway, the Height of the Tramway over or Depth under the Surface thereof, and the Height and Span of every Arch of all Bridges and Viaducts by which the Tramway will be carried over the same, shall be marked in Figures at every Crossing thereof; and where the Tramway will be carried across any such Turnpike Road, public Carriage Road, Tramway, or Railway on the Level thereof, such Crossing shall be so described on the Section, and it shall also be stated if such Level will be unaltered.

9. If any Alteration be intended in the Water Level of any Canal, or in the Level or Rate of Inclination of any Turnpike Road, public Carriage Road, Tramway, or Railway, which will be crossed by the Line of Tramway, then the same shall be stated on the Section, and each Alteration shall be numbered; and Cross Sections, in reference to the said Numbers. on a horizontal Scale of not less than One Inch to every Three hundred and thirty Feet, and on a vertical Scale of not less than One Inch to every Forty Feet, shall be added, which shall show the present Surface of such Canal, Road, Tramway, or Railway, and the intended Surface thereof when altered; and the greatest of the present and intended Rates of Inclination of such Road, Tramway, or Railway shall also be marked in Figures thereon; and where any public Carriage Road is crossed on the Level, a Cross Section of such Road shall also be added, and all such Cross Sections shall extend for Two hundred Yards on each Side of the centre Line of the Tramway.

10. Wherever the extreme Height of any Embankment or the extreme Depth of any Cutting shall exceed Five Feet, the extreme Height over or Depth under the Surface of the Ground shall be marked in Figures upon the Section; and if any Bridge or Viaduct of more than Three Arches shall intervene in any Embankment, or if any Tunnel shall intervene in any Cutting, the extreme Height or Depth shall be marked in Figures on each of the Parts into which such Embankment or Cutting shall be divided by such Bridge, Viaduct, or Tunnel.

11. Where Tunnelling, as a Substitute for Open Cutting, or a Viaduct as a Substitute for solid Embankment, is intended, the same shall be marked on the Section.

12. Every Plan and Section shall be signed by the Engineer of the Promoters.

Plans and Sections to be signed by Engineer.

PART III^a.*Notices to Owners, Lessees, and Occupiers of Lands.*

SCHEDULE A.

Part III.

Notices to Owners, &c., of Lands.

Form of Notice.

1. The Notice required to be given by Section iii. of this Act^a shall be given in respect of all Lands intended to be taken, or which may be taken as being within the Limits of Deviation defined upon the Plan, and shall be as nearly as may be in the Form set forth in the Appendix marked (A.)^b

2. Such Notice shall be given by being delivered personally to every Person to whom the same is to be given, or by being left at his usual or last known Place of Abode, or, in his Absence from the United Kingdom, with his Agent, on or before the First Day of May, or by being forwarded by Post in a registered Letter, addressed with a sufficient Direction to his usual Place of Abode, and posted on or before the Twenty-eighth Day of April at the Chief Post Office in Dublin, Belfast, Cork, or Athlone, at such Hours and according to such Regulations as Her Majesty's Postmaster General shall from Time to Time appoint for the Posting and Registration of such Letters.

3. In all Cases, the written Acknowledgment of the Person applied to shall, in the Absence of other Proof, be sufficient Evidence of a Notice having been given; and in case of a Notice having been forwarded by Post in a registered Letter, the Production of the Post Office Receipt for such Letter, duly stamped, in such Form as the Postmaster General shall appoint, shall be sufficient Evidence of the due Delivery of such Letter, provided it appear that the same was properly and sufficiently directed and was not returned by the Post Office as undelivered.

4. Except in the Case of Delivery of Letters by Post, a Notice served on a Sunday shall be of no Effect, and a Notice served after Eight o'Clock in the Evening of any Week Day but Saturday shall be deemed to be served on the following Day, and if served after that Hour on a Saturday shall be deemed to be served on the following Monday.

APPENDIX (A.) to Part III.—*Form referred to in Regulation 1^c.*

No. ———.

SIR,—We^d beg to inform you, that Application is intended to be made to the Lord Lieutenant in Council, through the [Grand Jury of the County of _____, or as the Case may be,] at the ensuing [Summer _____]

Form of Notice to Owners, Lessees, and Occupiers of Lands.

^a § iii, p. 434.^b Same page 457.^c Form of Notice to Owners, Lessees, and Occupiers of Lands, &c.: under Part III. 1, in previous part of this page.^d "We:" i.e., the Promoters, § iii. This notice is not required to be signed by all of them; it is usually signed in other similar cases by the Solicitors or a Solicitor or some Agent on behalf of the Promoters; and the form appears to be adapted from or for one signed by a firm of more than one person.

SCHEDULE A. Assizes, or as the Case may be,] for an Order in Council [*here insert a short Statement of the Objects of the proposed Order*], and that the Property mentioned in the annexed Schedule^a, or some Part thereof, in which we understand you are interested as therein stated, will be required for the Purpose of the said Undertaking, according to the Line thereof as at present laid out, or may be required to be taken under the usual Powers of Deviation to the Extent of _____ Yards on either Side of the said Line which will be applied for, and will be passed through in the Manner mentioned in such Schedule.

We also beg ~~to~~ inform you, that a Plan and Section of the said Undertaking, with a Book of Reference thereto, have been or will be deposited with the [Secretary of the Grand Jury of the said County, or as the Case may be], on or before the _____ of _____, on which Plan your Property is designated by the Numbers set forth in the annexed Schedule.^a

As we are required to report whether you assent to or dissent from the proposed Undertaking, or whether you are neuter in respect thereto, you will oblige us by writing your Answer of Assent, Dissent, or Neutrality in the Form left herewith^b, and returning the same to us with your Signature on or before the _____ Day of _____ next; and if there should be any Error or Mis-description in the annexed Schedule^a, we shall feel obliged by your informing us thereof, at your earliest Convenience, that we may correct the same without Delay.

We^c are, Sir,

Your most obedient servants,

To _____.

Note.—If the Application be forwarded by Post, the words “Parliamentary Notice” are to be printed or written on the Cover.

^a Page 459.

^b The form here alluded to is not prescribed or inserted in the act, or annexed to it.—But a form used in similar case for Railways &c. may be adapted as follows:—

Form for Owners &c., expressing Assent, Dissent, or Neutrality.

_____ Tramway. No. _____ Parish of _____.

Gentlemen,^a

_____, _____, 186 .

I beg to acknowledge the receipt, on or before the _____ instant, of your Application to me, in respect of the above-mentioned intended Tramway; and I request you will return me as [*here insert “assenting,” “dissenting,” or “neutral,” &c., as the case may be,*] in respect thereof, so far as the same may affect my interests.

I am, Gentlemen,^c

Your obedient servant,

To _____.

^c See Note ^a in p. 457.

Parish, Town- ship, Townland, or Extra-paro- chial Place.	Number on Plan.	Description.	Owner.	Lessee.	Occupier.	Description of the Sec- tion of the Line de- posited, showing the greatest Height of Embankment and Depth of Cutting where the Property is intersected by the centre Line of the proposed Work.
Property in the Line of the proposed Work, as at present laid out (includ- ing Property any Part of which is within Eleven Yards, or thereabouts, of the centre Line of such proposed Work, as deli- neated upon the Plan).						
—	Number on Plan.	Description.	Owner.	Lessee.	Occupier.	
Parish, Town- ship, Townland, or Extra-paro- chial Place.						
Property within the Limits of the Deviation intended to be applied for.						

Note.—Where the Property is not intersected by the centre Line, the Description of the Section is not given in the last Column.

1. The Board of Works
the following Heads of Inquiry
Promoters thereon; namely,

(1.) The Financial Arrangements:

(2.) Where the Promoter is incorporated by (1.)
Undertaking, the
subscribed for or
Share Capital and

(3.) The Sufficiency of

(4.) The Merits, in an

Tramway; the

the Number and

ings or other Use

peculiar engineer

for overcoming the

(5.) The Degree of Favour

is regarded by the

neighbourhood of the

2. The Board of Works shall
any such Owner, Lessee. Occa-
sionally is or are entitled to be heard
before a Grand Jury.

3. The Board of Works may
in the Possession or Posses-
sion of any Person admitted to be
which the Board of Works may
any such Person and his Wife
Company and for the Promoter
after any Oath or Declaration.

Tolls for the Use of the Tramway and of Carriages, and Cost of Moving Power, and every other Expense connected with such Conveyance, shall be—

SCHEDULE B.
Tolls and
Charges on
Tramway.

For every Passenger conveyed in a First-class Carriage, the Sum of Two Pence per Mile^a:

For every Passenger conveyed in a Carriage of inferior Class, the Sum of One Penny Halfpenny per Mile^a.

2. The foregoing Restrictions shall not extend to any Special Trains that may be required to run on the Tramway, but shall apply only to the Express and Ordinary Trains appointed from Time to Time by the Owners for the Conveyance of Passengers and Goods on the Tramway.

3. Every Passenger travelling on the Tramway may take with him his ordinary Luggage, not exceeding One hundred Pounds in Weight for First-class Passengers and Sixty Pounds in Weight for Passengers of inferior Class, without any Charge being made for the Carriage thereof.

GOODS.

4. Subject to the Provisions herein-after contained respecting small Parcels^b and single Articles of great Weight^c, the Tolls to be taken by the Owners of the Tramway in respect of the Tonnage^a of all Articles conveyed in Carriages thereon, or on any Part thereof, shall be—

(Class 1.)

For Dung, and all Sorts of Manure, Chalk, and all undressed Materials for the Repair of Roads or Highways:

For all Coals, Coke, Culm, Ironstone, and Iron Ore:

For all Charcoal, Limestone, Stones for building, pitching, and paving, Bricks, Tiles, Slates, Clay, and Sand:

For all Iron, Lead, Tin, and Tin Plates (except Nails, Utensils, or other Articles of Merchandise):

Not exceeding for the Use of the Tramway One Penny per Ton per Mile:

If conveyed in Carriages provided by the Owners of the Tramway, an additional Sum per Ton per Mile not exceeding One Eighth of a Penny:

If drawn or propelled by Power provided by the Owners of the Tramway, a further Sum per Ton per Mile not exceeding Three Eighths of a Penny.

(Class 2.)

For all other Goods, Wares, Merchandise, Articles, Matters, or Things (except Carriages, herein-after otherwise provided for), not exceeding for the Use of the Tramway Two Pence per Ton per Mile:

If conveyed in Carriages provided by the Owners of the Tramway, a further Sum per Ton per Mile not exceeding One Halfpenny:

If drawn or propelled by Power provided by the Owners of the Tramway, a further Sum per Ton per Mile not exceeding One Halfpenny.

(Class 3.)

For every Carriage, of whatever Description (not being a Carriage adapted and used for travelling on a Tramway, and not weighing

^a As to mode of calculating distances and tonnage in case of fractions, &c.; see Regulations in p. 463.

^b p. 463.

^c p. 464.

SCHEDULE B.***Tolls and
Charges on
Tramways.***

more than One Ton), not exceeding for the Use of the Tramway Six Pence per Ton per Mile, and the Sum of Two Pence per Mile for every additional Quarter of a Ton or fractional Part of a Quarter of a Ton above One Ton which any such Carriage may weigh: If any such Carriage be conveyed on a Truck or Platform provided by the Owners of the Tramway, an additional Sum per Mile not exceeding Two Pence:

If drawn or propelled by Power provided by the Owners of the Tramway, a further Sum per Mile not exceeding Two Pence.

For Animals.**ANIMALS.**

5. The Tolls to be taken by the Owners of the Tramway in respect of Animals conveyed in Carriages on the Tramway shall be,—

(Class 4.)

For every Horse, Mule, Ass, or other Beast of Draught or Burden, Ox, Cow, Bull, or Head of Neat Cattle, conveyed in or upon any such Carriage, not exceeding for the use of the Tramway Three Pence per Mile:

If conveyed in or upon any Carriage provided by the Owners of the Tramway, an additional Sum per Mile not exceeding One Penny:

If such Carriage be drawn or propelled by Power provided by the Owners of the Tramway an additional Sum per Mile not exceeding Two Pence.

(Class 5.)

For every Calf, Pig, Sheep, Lamb, or other small Animal conveyed in or upon any such Carriage, not exceeding for the Use of the Tramway One Penny per Mile:

If conveyed in any Carriage provided by the Owners of the Tramway, an additional Sum per Mile not exceeding One Farthing:

If such Carriage be drawn or propelled by Power provided by the Owners of the Tramway, an additional Sum per Mile not exceeding Two Pence.

6. The maximum Rate of Charge to be made by the Owners of the Tramway for the Conveyance of Animals, Articles, Matters, or Things respectively included in the Classes before mentioned, including the Tolls for the Use of the Tramway, and of Carriages, and Cost of Moving Power, and every other Expense connected with such Conveyance, shall not exceed the Amounts following:

For the Matters mentioned in Class 1, not exceeding One Penny Halfpenny per Ton per Mile:

For the Matters mentioned in Class 2, not exceeding Three Pence per Ton per Mile:

For any Carriage mentioned in Class 3, not weighing more than One Ton, not exceeding Ten Pence per Mile; and if weighing more than One Ton, not exceeding Two Pence per Mile for every Quarter of a Ton or fractional Part of a Quarter of a Ton additional:

For everything mentioned in Class 4, not exceeding Six Pence per Mile:

For everything mentioned in Class 5, not exceeding Three Pence Farthing per Mile:

Provided always, that it shall be lawful for the Owners of the Tram-

to demand and take, in addition to the Tolls and Rates of Charge herein-before authorized, a reasonable Sum for the Delivery and Collection of Goods and other Services incidental to the Business of a carrier, where such Services respectively shall be performed by the owners of the Tramway otherwise than on the Premises of the Tramway.

SCHEDULE B.
Tolls and Charges on Tramways.

7. The following Provisions and Regulations shall be applicable to the Calculation of the Tolls: Regulations for calculating Tolls.

For Passengers, Animals, or Things conveyed on the Tramway for a less Distance than Four Miles, the Company may demand Tolls as for Four Miles:

For a Fraction of a Mile beyond Four Miles, or beyond any greater Number of Miles, the Company may demand Tolls on Merchandise for such Fraction in proportion to the Number of Quarters of a Mile contained therein, and if there be a Fraction of a Quarter of a Mile such Fraction shall be deemed a Quarter of a Mile; and in respect of Passengers, every Fraction of a Mile beyond an integral Number of Miles shall be deemed a Mile:

For a Fraction of a Ton, the Company may demand Toll according to the Number of Quarters of a Ton in the Fraction; and if there be a Fraction of a Ton, the Fraction shall be deemed a Quarter of a Ton^a:

With respect to all Things, except Stone and Timber, the Weight shall be determined according to the usual Avoirdupois Weight: With respect to Stone and Timber, Fourteen Cubic Feet of Stone, Forty Cubic Feet of Oak, Mahogany, Teak, Beech, or Ash, and Fifty Cubic Feet of any other Timber, shall be deemed One Ton Weight, and so in proportion for any smaller Quantity.

8. With respect to Small Parcels and Single Articles of Great Weight, the Owners of the Tramway may lawfully demand for the carriage thereof on the Whole or any Part of the Line the Tolls following: Tolls for Small Parcels.

SMALL PARCELS.

For any Parcel not exceeding Seven Pounds in Weight, Six Pence:

For any Parcel exceeding Seven Pounds in Weight but not exceeding Fourteen Pounds in Weight, Nine Pence:

For any Parcel exceeding Fourteen Pounds in Weight but not exceeding Twenty-eight Pounds in Weight, One Shilling:

^a Sic. The latter part of this clause, as it stands in the act, appears inconsistent with the first part, which provides that for a *fraction of a ton* the toll may be according to the *number of quarters* of a ton in the fraction, while the latter part provides that the fraction shall be deemed only *one* quarter. The latter part of the clause was probably intended to provide that "if there be a *fraction of a quarter* of a ton, or a *fraction less than a quarter*, such fraction shall be deemed a quarter;" but it is not so expressed, and the two parts of the clause appear contradictory as regards fractions of weight amounting to two or three quarters, or to more than one quarter of a ton. In the case of one, two, or three quarters and *four cwt.*, for example, the four cwt. could not be charged for at all, and must be carried for nothing, under this clause.

SCHEDULE B. For any Parcel exceeding Twenty-eight Pounds in Weight but not exceeding Fifty-six Pounds in Weight, One Shilling and Six Pence:
Tolls and Charges on Tramways. For Parcels exceeding Fifty-six Pounds in Weight but not exceeding Five hundred Pounds in Weight, such reasonable Sum as the Owners of the Tramway may think fit:

Provided always, that Articles sent in large aggregate Quantities, although made up of separate Parcels, such as Bags of Sugar, Coffee, Meal, and the like, shall not be deemed Small Parcels, but that Term shall apply only to single Parcels in separate Packages.

For Single Articles of Great Weight.

SINGLE ARTICLES OF GREAT WEIGHT.

For the Carriage of any One Boiler or Cylinder, or any One Piece of Machinery, or single Piece of Timber or Stone, or other single Article, the Weight of which, including the Carriage, shall exceed Three Tons, the Owners of the Tramway may demand such Sum as they think fit.

Agreements for increased Charges in certain cases.

9. Nothing herein contained shall be held to prevent the Owners of the Tramway from taking any increased Charge, over and above the Charges herein-before limited, for the Conveyance of Goods of any Description, by Agreement with the Owners of and Persons in charge of such Goods, either in respect of the Conveyance of such Goods, except small Parcels, by Passenger or other Trains, or by reason of any other special Service performed by the Owners of the Tramway in relation to such Goods.

SCHEDULE C.
Railway Acts incorporated.

SCHEDULE (C.)^a
General Acts relating to Railways by this Act made applicable to Tramways^b.

—	Session and Chapter.	Title.
1	1 & 2 Vict. c. 98,* .	An Act to provide for the Conveyance of the Mails by Railways.
2	3 & 4 Vict. c. 97, .	An Act for regulating Railways.
3	5 & 6 Vict. c. 55, .	An Act for the better Regulation of Railways, and for the Conveyance of Troops.
4	7 & 8 Vict. c. 85, .	An Act to attach certain Conditions to the Construction of future Railways authorized or to be authorized by any Act of the present or succeeding Sessions of Parliament, and for other Purposes in relation to Railways.
5	17 & 18 Vict. c. 31,	The Railway and Canal Traffic Act, 1854.
	* As amended by 10	& 11 Vict. c. 85, s. 16.

^a § xlv, p. 452.
^b All the acts enumerated in this Schedule, as well as those incorporated or made applicable by Sections xix, xxiii, xli, and xlv, and acts since passed amending them, are contained in the *Hand-book and Supplement*; see Tables of Contents.

XLII.—PRELIMINARY INQUIRIES ACT, 1851.

14 & 15 VIOT., CAP. 49.

An Act to repeal an Act of the Eleventh and Twelfth Years of Her present Majesty, for making preliminary Inquiries in certain Cases of Applications for Local Acts^a, and to make other Provisions in lieu thereof.

[1st August, 1851.]

WHEREAS an Act was passed in the Session of Parliament holden in the Eleventh and Twelfth Years of the Reign of Her present Majesty, Chapter One hundred and twenty-nine : 11 & 12 Viot. c. 129, repealed.
And whereas it is expedient to repeal the said Act, and to make other Provisions in lieu thereof: Be it therefore enacted^b....,

1. That in respect of all future Applications to Parliament for Local Acts^a, the said recited Act shall be and the same is hereby repealed. Recited Act repealed.

2. Whenever Application shall be made to Parliament for a Bill^a whereby Power is sought to construct any Works on the Shore of the Sea, or of any Creek, Bay, Arm of the Sea, or navigable River communicating therewith, or to construct any Bridge, Viaduct, or other Work across any Creek, Bay, Arm of the Sea, or navigable River, or to construct any Work affecting the Navigation of any Harbour, Port, tidal Water, or navigable River, it shall be lawful for the Lord High Admiral, or for the Lords Commissioners for executing the Office of Lord High Admiral, to require the Promoters of such Bill to deposit at the Office of the Admiralty, in addition to the Plans, Sections, or other Documents which may have been deposited at such Office in compliance with the Standing Orders of either House of Parliament, all such Statements and other Documents as the said Lord High Admiral or Lords Where Works proposed on tidal Lands, &c., Admiralty may require Plans and Statements, &c.

^a The Preliminary Inquiries Act (1851), is applied, in case of a Tramway proposed to be carried over tidal lands under the jurisdiction of the Admiralty, to the application for an Order in Council for such Tramway, as if it were an application to Parliament for an Act:—see Irish Tramways Act, § xli, (p. 451.)

^b See note ^a in p. 401.

Commissioners shall deem necessary to explain the Objects of the intended Application to Parliament, and the proposed Interference with such tidal Lands or Navigation, as the Case may be.

Admiralty
may appoint
Inspectors
to make
Inquiry.

3. It shall be lawful for the said Lord High Admiral or Lords Commissioners, if they shall consider the same necessary or expedient, but not otherwise, to appoint a competent Person or Persons to be an Inspector or Inspectors, for the Purpose of inquiring, in such Manner and at such Time and Place as they shall direct, into all such Matters as they shall deem necessary to enable them to report to Parliament^a their Opinion upon every such Bill^a touching the Jurisdiction or Authority of the Lord High Admiral.

Inspectors
may summon
Witnesses
and take evi-
dence on
Oath.

4. For the Purposes of such Inquiry, the said Inspector or Inspectors may, by Summons under his or their Hands, summon before him or them any Person having the Custody of any Map, Survey, or Book made or kept in pursuance of any Act of Parliament, to produce such Map, Survey, or Book for his or their Inspection, and the said Inspector or Inspectors may summon, in Manner aforesaid, any other Person whose Evidence shall, in the Judgment of the said Inspector or Inspectors, be material to his or their Inquiries, and pay or allow to every such Person so summoned by him or them the reasonable Charges of his Attendance; and the said Inspector or Inspectors shall also have Power to administer an Oath to all Persons who may be examined by him or them touching the Premises.

Penalty for
non-attend-
ance or refu-
sal to give
evidence.

5. Any Person, being summoned by such Inspector or Inspectors, who, after the Delivery to him of such Summons as aforesaid, or of a Copy thereof, shall wilfully neglect or refuse to attend in pursuance of such Summons, or to produce such Maps, Surveys, Books, or other Documents as he may be required to produce under the Provisions herein-before contained, or to answer upon Oath or otherwise such Questions as may be put to him by such Inspector or Inspectors under the Powers herein contained, shall be liable to forfeit and pay a Penalty not exceeding Five Pounds, which may be recovered before any Two or more Justices having Jurisdiction

^a See note ^a in p. 465. In the case of a Tramway in Ireland, the report or opinion or other communication of the Admiralty, where necessary, is to be laid before the Board of Works and considered by them, under § xli of the Irish Tramways Act (p. 451.)

within the Town, District, or Place wherein such Inquiry shall be held ; and on Conviction of the Offender, and in default of Payment of any such Penalty, such Justices shall be empowered and required to cause the same to be levied by Distress and Sale of the Goods and Chattels of the Offender, by Warrant under their Hands and Seals ; and such Penalty shall be paid to the Treasurer of the County within which such Conviction shall take place, in aid of the County Rate ; provided that no Person, other than the Promoters of the proposed Act^a, or their Agents, shall be required to attend in obedience to any Summons, unless the reasonable Charges of his Attendance be paid or tendered to him, nor to travel in obedience thereto more than Ten Miles from his usual Place of Abode.

6. Before instituting any such Inquiry, the said Lord High Admiral or Lords Commissioners may, if they think fit, require and take such Security for the Payment of the Whole or any Part of the Costs, Charges, and Expenses to be incurred by them in respect of such Inquiry (including the Remuneration of the Inspectors) as to them shall seem fit ; and whenever any such Security is given, the Costs, Charges, and Expenses in respect whereof it is given shall, to such Amount as shall be certified by the said Lord High Admiral or Lords Commissioners (not exceeding the Extent or Amount of such Security), be a Debt due to Her Majesty from the Person or Persons respectively by whom the same is entered into.

Security for
Expenses of
Inquiry.

7. The Persons whose Names shall be subscribed to the Petition for any Private Bill shall be deemed to be Promoters of such Bill^a for all the Purposes of this Act, notwithstanding the Persons subscribing such Petition shall have signed for or on behalf of any other Party.

Who to be
deemed Pro-
motors.

8. In citing this Act in other Acts of Parliament, and in legal and other Instruments, it shall be sufficient to use the Expression "The Preliminary Inquiries Act, 1851."

Short Title
of Act.

^a See note ^a in p. 465. Under § i of the Irish Tramways Act, the persons intending to apply for authority to make and maintain a Tramway are declared the Promoters for the purposes of that act :—(p. 433.)



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